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THE

COLONIAL POLICY

OF

LORD JOHN RUSSELL'S ADMINISTRATION.

BY EARL GREY.

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IN TWO VOLUMES.

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THE COLONIAL POLICY

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LORD JOHN RUSSELL'S ADMINISTRATION.

LETTER VIII.

AUSTRALIAN COLONIES.—TRANSPORTATION.

My dear Lord John,

I propose to devote this Letter exclusively to the very difficult and important subject of Transportation. This question has long occupied the attention of Parliament and of successive Governments; and various modes of punishing criminals have from time to time been tried, in the hope of discovering some method of doing so, at once effectual for the protection of society, by creating a salutary dread of the consequences of violating the law, humane towards criminals, and just towards the inhabitants of our Penal Colonies. When we succeeded to office, none of the attempts to introduce a system of punishment answering this description had proved successful, and none less so than the very last that had been made. The consequences in Van Diemen's Land

of this latest experiment had been so unfortunate as to render it a matter of extreme urgency for us, immediately on our appointment, to consider and decide what course should be adopted in order to correct with the least possible delay the frightful evils which had been brought to light. We found that the intelligence received from this Colony had led the preceding Secretary of State (Mr. Gladstone) to the conclusion that, if the stream of transportation thither could not be entirely arrested for the next eighteen months or two years, at all events not less than two-thirds of the male convicts who would have been sent there in that time must be diverted to some other quarter; and it was stated, that he could not estimate the number for whom it would be necessary to make provision elsewhere, at less than from five to six thousand*. The preceding Government had adopted the views expressed by Mr. Gladstone in the official letter to which I have referred; and there seemed to us no room for doubting the correctness of their judgement as to the absolute necessity of relieving Van Diemen's Land, for a time at least, from the influx of convicts, who had for the last five or six years been sent there in such overwhelming numbers.

Nothing could be more lamentable than the state of things in that Colony, according to the best information which had been received. The convicts in gangs were in a state of extreme demoralization;

* See Papers on Convict Discipline presented to Parliament by Command, February 16, 1847, pp. 10, 11.

their discipline was relaxed and ineffective, and the amount of useful labour performed by them exceedingly small. The number of male convicts in the Colony on the 31st of December, 1845, was about 25,000, of whom nearly 12,000 were on the hands of the Government; and of these no less than 3268 were passholders waiting for hire* but unable to obtain employment, while the Comptroller-General of Convicts reported that in the course of the ensuing twelve months 3852 more would emerge from the probation gangs, and become eligible for employment as passholders, without his seeing any fair probability of the demand for labour being much increased. The Comptroller-General pointed out that the condition of these passholders waiting for hire was little better than that of convicts who were still worked in the probation gangs, which could not fail to have a bad effect on the discipline of the gangs. He also stated that much evil arose from having large bodies of passholders collected together in the hiring depôts†.

While the state of the Convict establishment was thus unsatisfactory, the general condition of the Colony was not less so. The finances were in a state of extreme embarrassment, the expenditure of the Government having so much exceeded the revenue, that the Lieutenant-Governor had been compelled to

* See the same Papers, p. 23.

† For an account of the state in which the Convict establishment in Van Diemen's Land was found by Mr. Latrobe and Sir William Denison, see their Despatches of May 31 and July 10, 1847, in the Papers presented May 5, 1848, pp. 33, 79.

obtain considerable loans both from the Bank and from the Military Chest, without any authority for doing so. Trade and every branch of industry were likewise greatly depressed, and large numbers of the free inhabitants were leaving the Colony. This disposition to abandon Van Diemen's Land was not confined to the working classes, who were naturally attracted by the higher wages of the neighbouring Colonies in the glutted state of their own labour-market, but extended to not a few of the higher classes also.

Such, when we assumed the direction of affairs in July, 1846, was the condition of the Colony, as shown by the accounts, both official and private, which came before us. Nor was it difficult to trace the causes to which this state of things was to be attributed. Up to the year 1840 the whole number of convicts transported from this Country to Australia had been divided between New South Wales and Van Diemen's Land. In that year an Order was made by the Queen in Council, on your advice (you being then Secretary of State for the Colonies), discontinuing New South Wales from being one of the places to which convicts might be sent. I must candidly tell you that it has always appeared to me that this was an error, and that the whole territory of New South Wales should not have been closed against the reception of convicts,—not, at all events, until more complete arrangements for otherwise disposing of them, than had then been made, had been matured and brought into operation.

Probably however the bad consequences of the measure would have been far less serious, had it been carried into execution according to your original plan, of which it was a material part that the whole number of criminals sent to Australia should be greatly reduced, a much larger proportion than heretofore being kept for punishment at home. But in the last year of Lord Melbourne's Administration a vote was carried against the Government in the House of Commons, for an Address to the Queen praying that this change of policy might not be continued, and that a large number of the convicts who had been detained in this Country might be sent abroad. In consequence of this vote, it became necessary to send many more convicts to Van Diemen's Land than you had contemplated when the Order in Council of 1840 was made; the result was, that, whereas in the twelve years from 1829 to 1840, both inclusive, the whole number of male convicts who arrived in Van Diemen's Land had been 19,878, giving an annual average of 1658; the number who arrived in the succeeding five years was 17,637, the annual average being 3527, or more than double that of the preceding period*.

Nor was this all. Formerly the great majority of convicts sent to the Australian Colonies were assigned as servants to the settlers; and though this system was liable to some very serious objections, which I think justified its condemnation by the Committee of the

* See Papers presented by Command in July, 1849, p. 84.

House of Commons on transportation in 1838, it was at all events attended with this great advantage, that it prevented the congregation together of large numbers of these men in the charge of the Government. But in consequence of the opinion which had been given by the Committee to which I have referred, and of a similar opinion which had been pressed upon the Government by Sir John Franklin, the Lieutenant-Governor of Van Diemen's Land, the practice of assignment was finally discontinued in July, 1841. Hence, while the number of convicts annually sent to Van Diemen's Land was more than doubled, as compared to former years, the number for whose safe custody and management the Government was called upon to provide, was increased in a very much larger proportion.

It is obvious that with the best possible arrangements it would have been extremely difficult to provide adequate buildings (without which the maintenance of proper discipline among a large body of convicts is impossible), and a sufficient staff of able and efficient officers, to meet the wants of a service so suddenly and so greatly extended; and unfortunately it is clear that Lord Derby (then Lord Stanley), who succeeded to you in the office of Secretary of State, had greatly under-estimated the amount of the increase of the buildings and establishment which was called for, in order to provide for the proper management of the very large number of criminals, which his measures placed in the immediate charge of the local Government. In the year 1842 he issued full instructions as to the system (known as

the probation system) on which the convicts sent to the Colony were in future to be managed; and in doing so he made a very proper and much-needed addition to the provision formerly made for the religious instruction of these unhappy men, but unfortunately he omitted to give directions for the immediate erection of suitable prisons for their reception; nor did he send out a sufficient number of really able and efficient officers to carry his regulations into effect. It is only just to Sir Eardley Wilmot, in whose hands the system of punishment established in 1842 so signally failed, to observe, that he was not furnished with the means which he considered necessary for the effective working of the plan; and that he has stated, that "too much economy" was, in his opinion, the mistake of the Commissariat, which had not "either in extent or with sufficient despatch furnished the buildings required."

He attributes this mistake to the injunctions which he quotes from Lord Derby's despatch of the 22nd of March, 1844, that "the primary object to be kept in sight in the employment of convicts is the raising by them of the produce necessary for their subsistence, and the consequent diminution of the expense now entailed upon the Mother-country;" and that "the benefit to accrue from their labour to Van Diemen's Land, important as I acknowledge it to be, is still but a secondary and subordinate consideration*." The importance of rendering the necessarily

* See Papers of February, 1847, p. 117.

large expense of the convict establishment as little burdensome to this Country as possible, cannot of course be doubted; but it is, in my opinion, equally beyond all doubt, that in Van Diemen's Land still higher considerations were sacrificed to an economy which proved in the end to be a fallacious one. I am persuaded that, if it were possible to make the calculation, it would be found, that ultimately an increase of expense has been occasioned by the error of sending out such large numbers of criminals, to be retained in the charge of the Government, without making adequate preparations for their reception. Nothing was really saved at last by not erecting at first, proper buildings where they might have been placed, if not in separate cells during the night, at all events in apartments so arranged and lighted and guarded, as to prevent the most revolting offences against morals and decency. Nor were the consequences much less serious, of omitting to send out from this Country a sufficient number of really efficient officers, capable of enforcing strict discipline among the convicts, and also of directing their labour, so as to render it as useful as it certainly might have been.

The endeavour to reduce the expense to the Mother-country of the convict service, likewise led to the adoption of a regulation, which also contributed to prevent the labour of this large body of men from being turned to much account. In a despatch dated the 23rd of August, 1842, the Governor was

instructed that the convicts were not to be employed either for the Colonial Government or for private individuals, without their services being fully paid for to the British Treasury. The Lieutenant-Governor strongly objected to this rule; and during the latter part of 1843 and the beginning of 1844 he continued to urge its being abandoned, in consideration of the universal distress in the Colony, and the impossibility that either the local Government or private individuals should employ convicts, even at the moderate sum charged for them per day by the Commissariat. In a despatch of May, 1844, he said that the difficulty of getting into service continued, and that the pass-holders, "being thus thrown on the world with nothing but their labour to support them, and no labour being in demand, either starve or steal." He concluded as follows:—"Unless some means are adopted to employ the ticket-of-leave men and conditional-pardon men, who, as they receive their indulgences, are thrown on their own resources, I am fearful we shall not only have a pauper population, but a thieving population, thrown upon us."

These remonstrances were not successful, nor did the Government of that day think it consistent with their duty to accede to Sir E. Wilmot's suggestion, that the payment of the superintendants and overseers required to direct the labour of convicts employed on Colonial works, should be accepted as an equivalent for its value. The unfortunate consequence was, that as the Colonial finances were not in a situation to bear

the cost of public works executed by convicts, on the terms required by the Home Government, the labour of these men was not made available, for the many works of this sort, which might have been undertaken, and which would have increased the demand for labour, by affording additional facilities to the settlers for the prosecution of various branches of industry. The labour thus withheld from the Colony, was employed in the endeavour to raise the agricultural produce required for the supply of the convicts, and in other ways, by which it was expected that the charge they occasioned to the British Treasury would be reduced. But either from the inability of the officers to enforce discipline and proper exertion on the part of the convicts, or from want of skill in the application of their labour, the returns obtained from it were of little value in comparison with its cost.

In Norfolk Island, which is a dependency of Van Diemen's Land, things were in 1846 even worse than in the latter; the demoralization of the convicts and the relaxation of discipline, both amongst them and the officers employed, having reached a pass which was truly frightful, and which led, on the 1st of July, 1846, to a formidable outbreak of the convicts, in which some of the overseers were murdered. This mutiny was put down by the interference of the troops, and twelve of the ringleaders were afterwards hanged.

I have already stated that our predecessors in office had considered it absolutely necessary, in the circumstances I have described, that transportation to Van

Diemen's Land should be greatly diminished, if not entirely arrested, for two years, and that we concurred in this decision. Mr. Gladstone had further considered it necessary that Sir Eardley Wilmot should be at once relieved from the Government of Van Diemen's Land, and he had accordingly directed Mr. Latrobe, the Superintendant of Port Philip, to proceed thither and take charge of the Island, as administrator of the Government, until a new Lieutenant-Governor should arrive.

For this post Mr. Gladstone had selected Sir William Denison, who had been appointed Lieutenant-Governor, but had not yet left England or received his final instructions at the time of our accession to office. Dr. Hampton had also been appointed to the office of Comptroller-General of Convicts in Van Diemen's Land, in succession to Mr. Forster, whose death had not long before been reported. A very judicious choice appeared to have been made in both cases. Sir William Denison, in addition to his general ability and high character, had the advantage of great professional skill and experience as an engineer officer, in which capacity he had for some years superintended the construction of very important works and buildings for the Admiralty, several of them being executed partly by convict labour. He was thus peculiarly qualified for the office of Lieutenant-Governor of Van Diemen's Land, where one of the first objects to be attended to at that time, was to render the labour of several thousands of convicts

more useful than it had hitherto been, and more especially to employ it, in supplying the deficiency of proper buildings for the convict service, which I have described. Dr. Hampton also had had experience under the Commissioners of Pentonville, and in the superintendence of convict ships, which was calculated to be of much service to him in the office to which he was appointed.

This being the state of things with which we had to deal, instructions were in the first place prepared for Sir William Denison, after much personal communication with him. The general object of these instructions was, to direct him to take such measures as appeared best calculated to remedy, with as little delay as possible, the evils I have described. For this purpose, he was to provide proper buildings for the reception of the convicts necessarily retained in the hands of the Government, he was to endeavour to improve the discipline of these men, and to stimulate them to industry by the introduction of a system of task-work, and at the same time to aim at turning their labour to better account by directing it more judiciously. To assist him in accomplishing this object, he was authorized to take with him to the Colony, ten or twelve non-commissioned officers of Sappers and Miners and of the Royal Artillery, whose services as overseers, in carrying on the works he might undertake, it was anticipated would be of great value. He was also, by means which were pointed out to him, to find work for the convicts, as they emerged

from the probation-gangs, to the extent which the deficiency of private employment might require. The particular modes of proceeding, to be adopted for the attainment of the objects contemplated in these instructions, (which were embodied in a Despatch dated the 30th of September, 1846, addressed to Sir William Denison on the eve of his departure for the Colony*), were subsequently altered in many important respects, in consequence of changes in the circumstances of the Colony and of suggestions derived from experience, and it is not necessary therefore to go into their details.

A more important and a much more difficult task remained to be performed. We had to consider and decide upon the arrangements to be made, for carrying into effect for the future, the sentences of transportation which are passed upon offenders according to the existing law, unless we should judge it necessary to recommend to Parliament an alteration of the law, and the substitution of some other secondary punishment. After much anxious deliberation, we came to the conclusion, that the mode of dealing with criminals sentenced to transportation ought to be materially changed, but that the law as it stood, gave ample powers to the Crown for effecting the required alterations. This being the case, although the new mode of inflicting the punishment of transportation, which we proposed to adopt, would eventually require the formal sanction of Parliament, we judged that the introduction of a Bill for that purpose, had better be

* See Papers presented to Parliament, 1847.

postponed until the proposed changes had been tried, in order that any defects in our plan might be ascertained by experience, and corrected, before legislating on the subject. This seemed to be the most prudent course, because we could hardly hope to succeed at once, in devising a system of secondary punishment, effectual for its purpose and free from objections, thereby solving a problem, which has for many years engaged the attention of the legislators and statesmen of most civilized countries, and has hitherto proved too difficult for them all. A full explanation of the manner in which we proposed that criminals sentenced to transportation should in future be punished, and of the considerations on which the plan was founded, was embodied in an official letter from Sir George Grey, as Secretary of State for the Home Department, to myself.

Without entering into details, I must remind you of some of the leading principles of the measures we proposed. We considered that transportation, as hitherto conducted, was not a simple punishment, but included the two very distinct punishments of exile, and of subjecting the offender in some shape or other to penal labour, either in the service of a master to whom he was assigned, according to the practice which prevailed prior to 1841, or else under the immediate charge of officers of the Government at home or in the Colonies. We believed that both these elements of punishment were useful, and ought to be retained.

Exile, by relieving the Country from a dangerous class, and at the same time affording to the offender the best chance of again becoming a useful member of society, was regarded as highly advantageous; but by itself it was plainly not a sufficient punishment for serious offences, since it is notorious that thousands of persons annually submit to it of their own accord, merely from the desire of improving their condition. Even voluntary emigration however is still a painful effort to the great majority of those, who from this motive make up their minds to have recourse to it; and that compulsory banishment from their native country, is still more acutely felt by a large proportion of those sentenced to it, is sufficiently proved, by the urgency of the petitions which are often addressed to the Government, not to remove convicts from this Country or to exchange conditional for free pardons, so as to enable them to return. Hence, viewing exile as in itself a substantial punishment, and one which upon other grounds it was desirable to retain, but as being quite insufficient in itself, it appeared to us that the sentence of transportation should continue to involve the same two penal elements as heretofore.

But we thought that experience had shown ample reasons, for altering both the mode and place of inflicting that part of the punishment, which consists in subjecting the offender to forced labour. The Committee of the House of Commons on transportation had, in the year 1838, for very good reasons, ad-

vised the discontinuance of the system of assignment. Since that time, the attempt to enforce penal labour on offenders kept under the charge of officers of the Government in the Colonies, had failed still more completely. There was room indeed to hope, that guided by the experience gained from that failure, there would be no difficulty in taking precautions that should prevent the recurrence of the evils which had arisen in Van Diemen's Land, at least in so aggravated a form, but still there were inherent difficulties in carrying into execution a system of penal labour in a remote Colony. In such a situation the Government could neither exercise a sufficiently close superintendence over the working of the system, nor yet command with the same facility as at home, the services of trustworthy and energetic subordinate officers, on whom the discipline and success of a penal establishment mainly depends. There could be little doubt that, if the large number of convicts in the penal gangs in Van Diemen's Land had been in penal establishments at home, the abuses which grew up would have been far sooner discovered and corrected, and that the difficulties which arose in getting an efficient staff of officers, would not have been experienced. Hence we considered that so much of the punishment of transportation as consists of penal labour, should be inflicted at home, or in comparatively neighbouring Colonies.

It was true, that for a long time many of the offenders sentenced to transportation had been punished

at home, by confinement in the hulks with work in the dock-yards, and that the result had been the reverse of satisfactory. But, on the other hand, the experiment of the separate system at Pentonville had been eminently successful, and there was reason to hope that, by improvements which might be introduced, convicts, after going through a period of separate imprisonment, might be employed on public works, within reach of the constant inspection of the Government, without the evils which generally attend the congregation together of large bodies of men in such circumstances.

With these views, it was stated in Sir George Grey's letter to which I have referred, that the punishment of transportation was intended in future, to consist of "a limited period of separate imprisonment, succeeded by employment on public works, either abroad, as at Gibraltar or at Bermuda, or in this Country; and ultimately followed, in ordinary cases, by exile or banishment for the remaining term of the original sentence*." In a subsequent part of the letter, the advantages offered by the Australian Colonies for the ultimate reception of convicts, after they had undergone the more strictly penal part of their sentence, were insisted upon; and in conclusion it was stated that "the plan itself must for the present be considered as experimental, and power will be reserved to the Government to modify it according to the results of experience. But, if permanently adopted, it

* See page 197 of the Papers already quoted.

will be necessary to embody it in a Bill to be submitted to Parliament*." In my official reply, after expressing my entire concurrence in the views explained in Sir George Grey's letter, I added that de-

* As we have been charged with a breach of faith towards the people of Van Diemen's Land for the resumption of transportation to that Colony, after a different intention had been expressed, it is right that I should explain precisely how the case stands on this matter. The claim of the Colonists to have received a promise that transportation to Van Diemen's Land should never be renewed, is founded on the fact that, in my despatch to Sir William Denison of the 5th of February, 1847, there are to be found the words, "I have to inform you that it is not the intention [of Her Majesty's Government] that transportation to Van Diemen's Land should be resumed at the expiration of the two years for which it has already been decided that it should be discontinued." This expression may have been an unguarded one; but it is impossible to read the despatch in which it occurs, without perceiving that it was meant to apply only to transportation on the former system, and that it was still intended that convicts should ultimately be removed to the Australian Colonies, though not for the purpose of undergoing forced labour in the penal gangs. In the sentence immediately preceding that containing the words on which the claim to a promise is founded, it is said, "The best and only hope of restoring convicts to society, as virtuous, industrious, and useful members of it, consists in their being removed as exiles, and as freemen, after having undergone a penal imprisonment and servitude in the United Kingdom." This passage, and the whole context of the despatch, clearly imply that the ultimate removal of convicts to the Colonies was an essential part of the plan which had been decided upon; and if any doubt could still have existed on this point, it must have been removed by the correspondence with Sir George Grey containing the expressions quoted in the text. This correspondence was printed and laid before Parliament, and transmitted to the Lieutenant-Governor, for the purpose of more clearly explaining to him the intentions and views of the Government. The plan thus explained was never departed from, except on one point. Originally it was intended that convicts,

spatches recently received afforded "new and conclusive proof that, while the Australian Colonies are far from possessing any advantages for carrying into effect the strictly penal part of the sentence inflicted upon convicts, they do possess the highest advantages for the reception of criminals, whom it is desirable, both for their own sake and for that of society, to remove, after their punishment has been completed, from the danger of being again brought into a criminal course of life in this Country, by the difficulties and dangers to which here they are unavoidably subject, but from which in the Colonies they are in a great measure exempt."

after undergoing a preliminary punishment at home, should be sent out as "Exiles," with conditional pardons. Subsequently it was found advisable that they should rather be sent as holders of tickets-of-leave. This was the only change which took place, and it is precisely one of those modifications of the original plan the probable necessity of which had been anticipated in the passage of Sir George Grey's letter quoted in the text. It is true that the Lieutenant-Governor, from misapprehending his instructions, as to the extent to which the former policy was to be abandoned, was induced to declare to the Legislative Council, in terms much more positive than these instructions were intended to warrant, the determination of the Government not to send any more convicts to Van Diemen's Land. This however was an error which could not commit the Government, even if the words used by Sir William Denison had been much stronger than they really were. In point of fact, what he said amounted to no more than an explanation of what he conceived to be the intentions of the Government at the time. Indeed, it was manifestly beyond the power of any Minister to make such a promise as has been claimed; and we had expressly recognized the necessity for having our measures eventually sanctioned by Parliament.

Sir George Grey's letter was dated the 20th of January, 1847, and my despatch, informing Sir William Denison of the intentions of the Government, the 5th of February following; and almost immediately afterwards (on the 16th of the same month), papers on the subject of convict discipline were presented to both Houses of Parliament. The letter and despatch in question were included in these papers, and our plans and views were thus fully explained to Parliament and the Public. The subject was speedily brought under discussion in both Houses, and in the House of Lords a select Committee was appointed to inquire into it, on the motion of Lord Brougham. Much valuable information was collected by this Committee, especially from the Judges, and from many of the persons most experienced in the administration of the criminal law and in the charge of convicts, whose evidence was in general strongly adverse to the abolition of transportation as a punishment, and the same opinion was expressed by the Committee in their report. In the course of some incidental discussions, it was clearly shown that the House agreed with their Committee; and, as far as it could be gathered, this was also the prevailing opinion in the House of Commons.

In the course of the year 1847, important information was received from the Colonies, which also tended to show the propriety of some change in the plan which we had experimentally adopted. During the two or three preceding years, a good many selected

convicts, after going through a period of separate confinement in Pentonville prison, had been sent to Port Philip with conditional pardons and with the name of exiles. Although upon the whole this measure had answered well, and the exiles had, for the most part, conducted themselves to the satisfaction of the settlers and of the local Authorities, this had not always been the case, and the conduct of some had afforded grounds for thinking, that a modification of the terms on which they were sent out, would be attended with advantage. As exiles, no control could be exercised over them; and so long as they neither returned to this Country, nor were legally convicted of any new offence, they had a right to the same freedom of action as any other of the Queen's subjects. Ticket-of-leave holders, on the contrary, could be required to reside in any part of the Colony that might be pointed out to them, and to conform to various regulations; while, for any misconduct, they were liable to have their tickets-of-leave withdrawn. It was shown by experience, that the change from the state of strict restraint of a prisoner in a penal establishment, to the unlimited freedom o the holder of a conditional pardon, was too sudden; and that the temptations to which exiles were exposed in the towns, where they were generally too much inclined to remain, were often found to be more than they could withstand.

With the additional information which was before us, and bearing in mind the expression of opinion

in Parliament during the previous Session, we again took the whole subject into consideration in the latter months of the year 1847 and the beginning of 1848, and came to the conclusion that, although in the main it would be right to adhere to the principles of the plan we had originally adopted, yet it ought to be subject to this very important modification, that convicts should in future be sent out, not as the holders of conditional pardons, but of tickets-of-leave. This change in our measures was determined upon; and it involved the necessity of this further change, that convicts could only be sent to Colonies which had been declared by Order in Council, under the authority of the Transportation Acts, places for the reception of transported offenders, and where a penal establishment was maintained. It was necessary, in order to give effect to the intended modification of the system of punishment at first adopted, to restrict the sending of convicts to such Colonies, because in no others would there be either the legal power, or the means, of exercising over them that control which makes the distinction between the holder of a ticket-of-leave and an exile. The system thus altered has continued to be since acted upon, but with progressive improvements in the details of the regulations which have been adopted, as these have been suggested by experience. Without troubling you with an account of the successive steps, by which the system of punishment was brought into the form it had attained when we retired from office, it will

be proper that I should give a brief summary of the regulations which we left in force.

Under these regulations all convicts*, except those whose bodily or mental health renders them unfit for it, are in the first instance subjected to a period of separate imprisonment, varying from six to eighteen months, according to their sentences, to the circumstances of their several cases, and to the manner in which they bear their confinement; eighteen months being apparently the longest period for which this severe punishment can be safely inflicted.

After they leave the separate prisons, they are ordinarily removed to one of the penal establishments at home, or at Gibraltar, or Bermuda, where they are detained and subjected to hard labour for a time, which varies according to their sentence, and to the greater or less degree of good conduct and industry they manifest. A system of task-work, with a daily record of the work they do and of the manner in which they behave, has been established, by which convicts are enabled to abridge considerably the period of their detention, by industry and good conduct, and to pass to the next stage, that of ticket-of-leave holders in the Colonies. They are found to look forward with intense anxiety to obtaining this boon; and the hope of doing so, is thus a powerful instrument for the

* I ought to mention that I refer only to male adult convicts; this is the class which comprises the great majority, and it would lead me into details unsuitable to this Letter, from their length, if I were to advert to other classes.

maintenance of discipline, among those still under coercion, whether at home or abroad. A few, who prove altogether unmanageable at home, are sent to Norfolk Island, instead of with tickets-of-leave to another Colony, and some are also sent to Van Diemen's Land or Western Australia without tickets-of-leave; but these two classes form only a small proportion of the whole. Sending any convicts to the Colonies without tickets-of-leave, was a departure from our original plan; but it was found necessary to send a few in this manner, in order to keep up the establishments required in the Colonies for the reception and punishment of men whose tickets-of-leave might be withdrawn for misconduct; and it also appeared that a valuable addition might thus be made, to the means of maintaining discipline among the large bodies of convicts at home.

In the Colonies, those to whom tickets-of-leave are granted, are not allowed to leave the custody of the Government, until they have made an agreement with some settler, to serve him for not less than a year; the employers being responsible for paying to the Government a certain sum annually from their wages. The ticket-of-leave holders are not considered eligible for conditional pardons, until they have paid a certain sum in this manner, and have behaved well for a time, varying according to the length of their sentence. Thus a man transported for seven years, must behave well, as ticket-of-leave holder, for not less than a year and a half, in which a deduction from his wages, at

the rate of £5 a year, or £7. 10*s*. in all, must be paid to the Government. A man transported for twenty years, or for life, is not eligible for a conditional pardon, until he has behaved well for five years, and has paid £25 to the Government. By this regulation, together with those, by which a prisoner can abridge the period passed by him in the preliminary stages of his punishment, by industry and good conduct, he may obtain a conditional pardon when he has completed about half the term of his sentence, a sentence for life being reckoned for this purpose equivalent to one for twenty years. The holders of tickets-of-leave are required to reside in certain districts, and, as a general rule, at a distance from the towns and more settled portions of the Colonies.

The above is a summary of the regulations to which the holders of tickets-of-leave were to be subject, according to the latest instructions which had been sent to the Governors of the Penal Colonies when we left Office; but at that time, though these instructions had been acted upon in Western Australia, this had not been completely accomplished in Van Diemen's Land; and I do not know what may have since been done. You are aware, that the object of these regulations is to assimilate the condition of the ticket-of-leave holders to that of the assigned servants of former days, except in those particulars in which the system of assignment was open to objection. It is impossible to doubt, from the evidence of facts, and from the all but unanimous opinion of the Colonists, that,

with all its faults, the old system of assignment worked admirably in many cases, and that it was the means, both of greatly advancing the wealth and prosperity of the Colonies in which it prevailed, and also of rescuing from their criminal career, and rendering once more useful members of society, a larger proportion of the offenders so treated, than, I believe, any other system of punishment hitherto tried.

A close investigation of the circumstances in which a convict was placed as an assigned servant, and of the manner in which they generally affected him, will show that the advantages of the system consisted mainly in its effecting two objects. It dispersed the convicts over a wide territory, at a distance from the temptations of their former life, and without the means of indulging their old and bad habits, with little or no command of money, but with an abundant supply of all they really want;—and it brought to bear upon them strong incentives to good conduct, both in the hope of entire freedom, to which this was sure to lead, and in the salutary dread of the prompt and severe punishment, to which conduct of an opposite description would expose them. On the other hand, the disadvantages of the system were, that it placed assigned servants far too much in the power of their masters, in whose characters there was necessarily much variety. The assigned servants were in fact slaves, and there is only too painful proof that in many instances the evils inseparable from slavery were experienced.

Now it will be observed, that the regulations I have mentioned, as having been prescribed with regard to the holders of tickets-of-leave, are contrived for the purpose of retaining as much as possible of what was good, and rejecting what was evil, in the old system of assignment. They provide for the dispersion of the convicts, for their being kept at a distance from the towns, and in the districts to which free labourers will least willingly go. They also provide against these men having the command of much money, while they yet give them an interest in being industrious, by making the deduction from their wages a fixed amount, so that the more they earn the larger will be the surplus to be paid to them; and they have the same inducement to good conduct as the assigned servants, as they know that by such conduct they may certainly expect to obtain conditional pardons, while if they behave ill, not only will they lose this advantage, but even their tickets-of-leave can be withdrawn.

At the same time the effect of the regulations is not to reduce them to the condition of slaves: they have the privilege of free labourers in agreeing for themselves with their employers, and making the best bargain they can as to the wages they are to receive. The Crown, which has by law a property in the services of persons sentenced to transportation, instead of assigning this property to the master, makes it over to the man himself, subject to the condition of his submitting to a certain annual deduction from his wages, for the payment of which his employer is responsible.

This difference is very material, and is an effectual security against an abuse, which was not unknown under the old system of assignment. The very fact of his behaving well, was sometimes made to delay the period of a convict's obtaining his freedom, as an unscrupulous master, to avoid losing a good servant, has been known to make a report of his conduct which postponed the period of his being enlarged. To complete this account of the regulations we adopted, I have only to add, that it was provided that the wives and families of married convicts should be sent out to join them, whenever either the men themselves or their families could pay half the cost of their passage, and that the deduction made from the wages of convicts while holding tickets-of-leave, should be allowed to reckon towards the proportion of this expense, which they were required to contribute. The Governors were instructed to apply the remainder of the money received from these men for the benefit of the Colonies, either in promoting free immigration or in public works.

Such, in its complete form, was the system which we established for carrying into effect the punishment of transportation, which has so long been known to our law, and this system has received somewhat more than the tacit approval of Parliament. Not only has the fullest information, as to every step of importance which we took, been regularly laid before Parliament, without any attempt having been made to obtain from either House a disapproval of our

measures; but the Convict Prisons Bill of 1851, which we submitted to Parliament, for the purpose of giving greater facilities for the execution of that part of our plan which related to the punishment of prisoners at home, was passed without opposition. But though nothing like serious opposition to our policy was attempted in Parliament, we had, in acting upon it, to encounter difficulties of the most formidable kind.

I have already mentioned that, at the time of our accession to office, it was necessary, according to the calculation of my predecessor, to make provision elsewhere for not less than from 5000 to 6000 convicts, who, in the next two years, if no change had been made in the arrangements of the five previous years, would have gone to Van Diemen's Land, but whom it was now impossible to send there. But the previous Administration had not had time to take any steps for meeting this exigency, so far as regards prisoners who must for a time be retained in that condition, beyond instituting a preliminary inquiry as to the Colonies to which they might be sent, and giving directions for sending as large a number as possible to Bermuda and Gibraltar. The first question therefore which pressed upon us was, how we were to provide for the large body of convicts who, in a comparatively short time, must be "diverted," to use Mr. Gladstone's expression, from Van Diemen's Land.

There were two distinct objects to be provided for, with regard to these men, in applying the system

of punishment which we contemplated. It was necessary to make arrangements, in the first place, for their safe custody under proper discipline, while they should be in a state of punishment properly so called; and, in the next, for their reception abroad, when they should emerge from this preliminary state of punishment. Both these objects presented many difficulties; but the most urgent and embarrassing question was, how to dispose of the offenders sentenced to transportation, who would be thrown upon our hands by succeeding Assizes. The exigency had arisen suddenly, and there existed very insufficient means of meeting it; there were no proper buildings, no adequate convict establishments or machinery for carrying on the service on the scale that was required; everything had to be created, and was wanted at once. It was obviously impossible that at first the arrangements should be otherwise than exceedingly imperfect, and it was only by degrees that they could be improved, and that adequate means could be provided for the custody and discipline of convicts, while kept under coercion.

Our difficulties and embarrassment were also much increased, in the first years of the new policy, by the sudden augmentation of the number of convicts sentenced to transportation in Ireland, in consequence of the famine. The average annual number of persons sentenced to transportation, in that part of the United Kingdom, in the three years before the famine, was 681; in the years 1847, 1848, and 1849

this average rose to no less than 2658. It would be foreign to the objects of this Letter to enter into any detail as to the arrangements for the punishment of convicts at home, which were made under the direction of Sir George Grey. But the effect of sending these men to the Colonies under the existing system, greatly depends upon the manner in which the preliminary stages of their punishment are passed through by them in this Country. I may therefore be permitted so far to deviate from my immediate subject as to mention that, during your Administration, the Secretary of State for the Home Department succeeded in providing the means of subjecting all prisoners sentenced to transportation in England and Scotland, to a certain period of separate imprisonment, and that the great penal establishments at Portland and Dartmoor were created and brought into operation, in which, at the date of the last Report, there were no fewer than 1845 convicts* in the highest state of discipline. A prison has also been built at Portsmouth, as a substitute for the Hulks formerly used, for the convicts employed in that Arsenal; and we looked forward to the time when we should be able to get rid entirely of Hulks, which must always be bad, and at the same time expensive, prisons.

In Ireland the Mountjoy Prison has been built, and

* In Portland Prison, December 31, 1851 829
In Dartmoor Prison 1,016
1,845

(See Reports of Directors of Convict Prisons for 1851.)

is managed, on the model of that at Pentonville; and a large establishment has been formed on Spike Island, for the custody and employment of convicts when they are removed from separate confinement. The difficulties with regard to Irish prisoners, owing to the sudden increase in the number sentenced to transportation, have been partly met by passing an Act of Parliament, authorizing the Crown to send convicts from that country to Gibraltar and Bermuda. An Act was also passed, abolishing the punishment of transportation, in cases of a first conviction for simple larceny, which considerably reduced the number of such sentences.

Such are the measures which have been adopted in this country. The establishments at Gibraltar and Bermuda have always been regarded as on the same footing as the Hulks at home, since convicts are not allowed, after their release, to remain at either of these places. Every effort was made, in the early years of your Administration, to increase the accommodation, and to receive as large a number of convicts as possible at both.

At Bermuda, the erection of prisons on shore is in progress, to supersede the Hulks which have hitherto been in use, and which are even more objectionable in that climate than elsewhere. A great part of the work in building the new prisons, at Bermuda, Portland, and Dartmoor, has been done by the prisoners themselves. By the various measures which I have thus slightly sketched, we succeeded in keeping down the number

of convicts sent to Van Diemen's Land, sufficiently to avoid embarrassing the efforts of Sir William Denison to effect the reform so urgently needed in the penal establishment in that Colony. This, as I have said, was accomplished with great difficulty in the first years of your Administration; but I am happy to think that, when we gave up the direction of affairs, we left the convict establishment in such a condition as to afford ample means for inflicting the first stages of their punishment on offenders, and at the same time to render the accomplishment of the further improvements which are still needed, comparatively easy.

But our greatest difficulty was to find means by which to provide in a satisfactory manner for the ultimate disposal of prisoners, when they should no longer be under the direct charge of the officers of the Government. This difficulty did not press upon us quite immediately, because the system of punishment I have described, as that which we decided upon adopting, involved their detention for a considerable time in penal establishments elsewhere, before they were sent on to the Colonies, in which the hope of ultimate freedom was to be held out to them. But it was necessary at once to look forward, and to take the requisite steps to enable us at the end of a year or two to meet the expectations which the offenders sentenced for the shortest terms would be encouraged to entertain, and the strict fulfilment of which was the key-stone of the whole system. How to effect this, by finding places to which convicts might, at

the proper time, be sent with tickets-of-leave or conditional pardons, with a fair prospect of maintaining themselves by honest labour, was a most embarrassing question, but one with which it was necessary to deal.

I have shown that the House of Commons, in the year 1841, by a formal vote carried against the Administration of the day, had declared its objection to the retention in this country of any large proportion of the offenders sentenced to transportation; and that in 1847 the House of Lords, though it came to no formal vote, had clearly indicated a similar opinion, by its appointment of a Select Committee, and by the tone of the discussions which took place on the system of punishment we had proposed. Such being the opinion manifested by both Houses of Parliament, while transportation beyond the seas was the principal secondary punishment known to the law, and our own judgement was in favour of the ultimate removal of criminals from this Country, it was clearly incumbent upon us to make every exertion in our power to discover some means by which this object could be accomplished.

But since the revocation in 1840 of the Order in Council, by which New South Wales had been declared a place for the reception of criminals sentenced to transportation, there remained no Colony to which they could be sent, with a view to their remaining there, except Van Diemen's Land, of which the labour-market had, as I have shown, been so completely glutted that it was quite unsuited for the

purpose. The inquiries instituted by Mr. Gladstone, and afterwards by myself, as to the possibility of sending criminals to other Colonies, were attended with little success, in finding new and permanent openings for disposing of them; none such has yet been found, except in Western Australia, in which Colony it was not until 1850 that we were able to make the necessary arrangements for their reception. Hence we were inevitably compelled to rely mainly on the effect of the measures which we determined to adopt, in order to restore Van Diemen's Land to a more healthy state, and to create a demand for the labour of the convicts we might send there.

The steps which we took with this view, and which I shall presently describe, proved more successful than might have been anticipated. What perhaps contributed more to this result than anything else was, that for a time we were enabled to avail ourselves to some extent of New South Wales, as a place to which convicts might be sent, on emerging from the earlier stages of their punishment. I have already mentioned that, for two or three years previously, some had been sent to Port Philip as exiles, and in the Spring of 1847 we received from Sir Charles Fitzroy a remarkable report from a Committee of the Legislative Council of New South Wales, on this subject. A despatch of Mr. Gladstone's, which directed the Governor to ascertain and report whether a limited number of convicts might not be sent there with advantage, was laid

before the Legislative Council by the Governor; and having been referred to a Committee, a very able report was made upon it, so immediately before the close of the Session, that the Legislative Council had no opportunity of considering it; but it was nevertheless transmitted to this country by Sir Charles Fitzroy, in his despatch of the 6th of November, 1846*. The Committee in this report began by observing, that if transportation from this Country to any part of Australia could be entirely put an end to, this would be what, in their opinion, would be "most conducive to the interests and most agreeable to the inclinations" of the Colonists; but they stated that it was plainly not the intention of the Home Government thus to put an end altogether to transportation to Australia. On the contrary, convicts were still to be sent to Van Diemen's Land, and to the then proposed new penal settlement of North Australia. That the question therefore for the inhabitants of New South Wales to consider practically was, not whether convicts should be altogether excluded from their Colony, but whether they should be received directly and on equitable conditions, or whether they should come indirectly through other Colonies, and without the adoption of the measures which might be taken to compensate for their presence, if transportation were openly renewed. Looking at the question in this light, the Committee reported decidedly in favour of allowing transportation to New South Wales to be

* See Papers presented to Parliament, April 15, 1847, p. 3.

renewed upon certain conditions, of which the following are the most material.

"That the transportation of male convicts be accompanied, as a simultaneous measure, with the importation of an equal number of females, to consist of female convicts as far as they will go, and the balance to be made up of female emigrants.

"That, as a further simultaneous measure, such transportation be accompanied with an equal importation of free immigrants, as nearly as possible in equal proportion as to sexes.

"That the wives and families of all convicts receiving permanent or temporary indulgences, should be brought out and count as part of this free immigration.

"That not fewer than 5000 male convicts be annually deported to this Colony."

Then followed certain conditions as to the expenses to be provided for by the Mother-country, and other matters to which I need not now refer; after which the Committee proceeded to state that the descriptions of convicts who should be received were,—

"1st, Young delinquents who have committed first offences after little or no probation.

"2nd, Convicts who have committed grave offences after a probation considered adequate to the crime; the probation meant being probation under the separate system.

"3rd, Convicts at the commencement of their sentences, who have committed various crimes.

"4th, If any convicts be received from Van Diemen's Land, convicts with tickets-of-leave."

The Committee proposed that the third class of convicts mentioned above should be assigned as servants to the Settlers, according to the former system, but with some additional regulations to guard against abuse. Of that system the Committee expressed the highest approbation, and a still stronger condemnation of all plans for working convicts in gangs in the Colony, under any regulations that could be devised.

On these conditions the Committee recommended that transportation to New South Wales should be renewed, and described in such glowing terms the advantages which would result from this, both to the Colony and the Mother-country, as to make it obvious that the compulsion to receive convicts in some way or other, to which they professed to yield, was not one to which they submitted with any great reluctance. They stated:—"Your Committee indeed feel satisfied that, under the conditions thus to be imposed on future transportation, all the hulks, prisons, and penitentiaries of England might be at once emptied of their inmates, and those inmates readily employed in the boundless fields of profitable occupation, at present shut up from Colonial enterprise, and destined to remain so, until a sufficient supply of labour from some source or other shall arrive among us to open them out." They proceed afterwards to state:—"Nor are your Committee at all apprehensive that any moral evil of serious account would flow in upon the Colony

from the large importation of criminals, which would be consequent on so great a revolution in the administration of the penal discipline of England. The free population have now obtained so great a head and mastery over the convict population, that if this preponderance be only maintained in any future scheme of transportation, the absorbing and dispersing powers of the community will be so vast and will so rapidly augment, that there will be no chance that transportation here, whatever its amount, will be able to swamp the free population of this Colony as it swamped it formerly, and as it has latterly swamped the free population of Van Diemen's Land."

In their peroration the Committee warm into enthusiasm on the advantages to be anticipated from adopting their suggestions. They say:—"Such, your Committee conceive, would be the immense gains and mighty influences for good, which would result at home from the change here recommended in the administration of the penal discipline of our common Country; whilst, on the other hand, the seeds of a great community would be sown on this continent, which would shoot up with a vigour and rapidity unexampled in the history of our race,—a community which, from its very outset, would re-act powerfully on the whole frame of her internal industry, enlarging the field of her employment at home, extending the circle of her commerce abroad, until, in the rapid progress and ultimate immensity of this beneficial interchange, a mighty Colony would arise, linked to her by the strong ties of

common origin and mutual interest; a faithful subject and never-failing customer, that would be attached to her in peace, would not desert her in war—that would multiply her resources, increase her numbers, consolidate her strength, and be the mainstay, not only of her supremacy and dominion in these seas, but probably of her continued supremacy and dominion in the world."

This Report was signed by Mr. Wentworth, as Chairman of the Committee, of which the other members were Mr. Lowe, Dr. Bland, Captain O'Connell, Mr. Robinson, Mr. Foster, Mr. Dangar, Mr. H. H. M'Arthur, Mr. Windeyer, and the Colonial Secretary. I give the names, because those acquainted with the affairs of New South Wales will see from the list how much importance was due to the Report of a Committee so composed*.

In a despatch written a little later (on the 20th of December, 1846), Sir C. Fitzroy transmitted a report from the Acting Superintendent of Port Philip, stating that a ship with exiles having arrived at Melbourne, the whole of the men had been engaged in three days at high wages, and enclosing a return of two thousand "Expirees," as they a retermed, who had been introduced from Van Diemen's Land at the expense of certain land and stock proprietors of Port Philip. The Acting Superintendent added that, "Could more ample funds have been raised, the importation of Ex-

* See Convict Papers presented to both Houses of Parliament, April 15, 1847, pp. 6–14.

pirees from Van Diemen's Land would have been much greater*;" and it appears from the local newspapers, that associations had been formed by the leading Colonists for the purpose of bringing over these men, for which object assistance was afforded by the Royal Bank of Australia, and that one of the first to avail himself of this assistance was Mr. Charles Cowper, the present Chairman of the Anti-Convict League.

It was obvious from this information, and from applications for the renewal of transportation to New South Wales, which reached us from more than one quarter, that there existed a strong desire among many of the Colonists for a supply of labour of this description; but the Governor had also transmitted many memorials, expressing in strong terms the opposite wish, and had stated that he was "entirely unprepared as yet to say on which side the opinions of the generality of the more respectable and influential portion of the community will preponderate." In these circumstances we thought it our duty to make no change in the arrangements as they then stood; that is, to allow occasionally small numbers of exiles to be sent to the Colony, but not to take measures for sending a larger number of convicts with tickets-of-leave until we should know the determination of the Legislative Council on the report submitted to them by their Committee. Our view was, that a Colony, not originally founded as a convict Colony, or in which the Order in Council making it

* See Convict Papers, presented May 5, 1848, p. 10.

so had been formally repealed, could not properly be made a place for the reception of offenders unless with the assent of the inhabitants; and that in a Colony having a Legislature of a representative character, that body was entitled to be regarded as alone competent to express with authority the wishes of its constituents.

Accordingly we determined, as I have said, to wait for the decision of the Legislative Council; and in the meantime a despatch was written to Sir Charles Fitzroy, on the 3rd of September, 1847, explaining the views of the Government on the Report of the Committee which he had transmitted to us, stating that we could not entirely accede to the proposals it contained, but that we would consent to the renewal of transportation to the Colony, under an arrangement, the heads of which were fully given, and which was in its essential principles, though not in its details, the same with that suggested by the Committee. He was informed that we proposed to send out convicts to New South Wales with tickets-of-leave, after having undergone previous punishment at home; and also to take measures for sending out, at the cost of the British Treasury, a number of free emigrants equal to that of the offenders who might go to the Colony. The most important conditions proposed by the Committee, to which we did not assent, were those which would have involved the partial re-establishment of the system of assignment, and the imposition upon the Mother-country

of two-thirds of the charges incurred by the Colony for police, gaols, and the administration of criminal justice*.

In the meantime, while we were considering the Report of the Committee of the Legislative Council, and coming to this decision, that Council had also been considering the same Report at Sydney, and had come to a resolution rejecting the recommendation of its Committee, and deprecating the resumption of transportation. This resolution was transmitted to this Country by the Governor, in his despatch of the 25th of September, 1847†, which was answered by my informing him that no further steps would be taken on the subject, until we should know the decision of the Legislative Council on the proposals contained in my despatch of the 3rd of September, 1847. As soon as that despatch reached the Colony, Sir Charles Fitzroy laid it before the Legislative Council, which, on the 7th of April, 1848, came to resolutions, on the motion of Mr. Wentworth, in favour of acceding to the proposals it contained. In transmitting these resolutions, the Governor recommended "the immediate commencement of the system;" expressing his conviction, that it would be "received as a boon by a large majority of the people of this Colony, where the want of a sufficient supply of labour is becoming daily more apparent, and is operating most injuriously

* See Despatch to Sir C. Fitzroy of September 3, 1847, in the Papers presented May 5, 1848.

† See the above Papers, p. 31.

on the prospects of many of the largest and most respectable landholders in it*."

This despatch reached England on the 7th of August, 1848. Unfortunately, the near approach of the end of the Session rendered it impossible for us then to propose to Parliament a vote for sending out free emigrants to the Colony, in consideration of its consenting to receive convicts; and the financial situation of the country at that time was such, that we could not rely on being able to propose such a vote even in the following Session. In these circumstances the course that was adopted was that of explaining to Sir C. Fitzroy our inability, for the above reasons, to adhere in this respect to the arrangement we had proposed in the previous year, and informing him that, on finding that we could not fulfil the expectations we had held out, of a boon to be granted to the Colony in consideration of its receiving convicts, we should have abstained from sending any, until there had been time to communicate with him again, had we not feared that serious injury to the Colony must arise from our taking that course. We inferred from his despatch, and from the information which had reached us from other quarters, that the want of labour was so urgent, that the largest supply which could be furnished by funds raised in the Colony for free immigration, would be altogether inadequate. We therefore judged that the Colonists would prefer having some ticket-of-leave holders, calculated to prove very useful as labourers, sent to them

* See Convict Papers presented in February 1849, p. 38.

at once, even though unaccompanied by the promised free labourers, to suffering the great inconvenience of having any accession of labour, beyond what they could obtain by their own resources, delayed for the many months which must be lost, before an answer could be received to another despatch addressed to him. Accordingly a moderate number of convicts of the above description would, he was informed, be sent out; and for the purpose of investing him with the necessary legal power to maintain the control over them, to which we concurred with the Committee of the Legislative Council in thinking that they ought to be subject, the Order in Council of 1840, by which New South Wales had ceased to be a place for the reception of convicts, was revoked.

Sir Charles Fitzroy was further told that, if the Legislative Council should object to receive convicts without the free immigration at the expense of this Country which had been stipulated for, the transmission of any more convicts to the Colony would at once be stopped, and application would be made to Parliament for the means of fulfilling our original promise, by sending out as many free immigrants at the cost of this Country as the Colony might be entitled to by the number of convicts sent off before the decision of the Legislature could be known*. No doubt was entertained, when these instructions were written, that, even if for pecuniary reasons it should be thought inex-

* See Despatch to Sir C. Fitzroy of September 8, 1848, p. 50 of the above Papers.

pedient to adopt permanently the principle of sending out free emigrants to the Colonies receiving convicts, Parliament would enable us to send to New South Wales the number required to make good this engagement.

The Governor having published this despatch for general information, a great opposition to allowing convicts to be sent on any terms to the Colony immediately arose; attacks were made upon us in speeches at public meetings and by the newspapers, for what was termed a gross breach of faith; and on the 1st of June, 1849, the Legislative Council voted an Address to the Queen, in which, without any reference to their vote of the previous year, in favour of the resumption of transportation, they not only expressed their objection to it on the terms proposed in my Despatch of the 8th of September, 1848, but strongly protested "against the adoption of any measure by which the Colony would be degraded into a penal settlement;" at the same time entreating Her Majesty "to revoke the Order in Council by which New South Wales has been again made a place to which British offenders may be transported*."

It is hardly necessary to observe, that the reproach directed against us for an alleged breach of faith, in sending out convicts unaccompanied by free immigrants, was perfectly idle. By undertaking that, if the promise was claimed, it should be strictly fulfilled (as was afterwards done), all grounds for such a com-

* See Convict Papers, presented January 31, 1850, p. 19.

plaint were completely obviated. Nor in point of fact do I believe, that the omission to send out the free immigrants stipulated for, had really much to do with the storm of popular indignation which was raised against the renewal of transportation.

The Legislative Council, it will be observed, does not ground its refusal of the proposal of September, 1848, on its differing from that to which it had previously given its assent, but protests "against any measure by which the Colony should be degraded into a penal settlement." There had, in truth, for many years been a strong party against the reception of convicts in New South Wales,—a party composed of very different elements, and including, with many who sincerely entertained the repugnance they professed on moral grounds to the introduction of such persons into the Colony, a great number of the labouring classes, especially in the towns of Sydney and Melbourne, who were influenced by jealousy of the competition of convicts, and a fear that their coming might lead to a reduction of the extravagant wages they had been in the habit of obtaining; and others again who, for personal or electioneering objects, thought it their interest to excite the popular passions, and found in this question the easiest means of doing so. The anti-transportation party, thus composed, had in the interval since the subject was last considered in the Legislative Council, gained the ascendency, assisted in no small degree by the diminished urgency of the demand for labour, in consequence of the large free

immigration which had for some time been carried on under the direction of the Commissioners. Having gained the ascendency, the opponents of transportation carried with them many whose sincere opinions, looking to their previous language and conduct, can hardly be believed to have been in unison with the prevailing sentiment of the hour. Nor is this surprising, as the moral courage to oppose the tide of popular feeling when it appears to be wrong, is a rare virtue everywhere, and especially in small Colonial societies, new to the exercise of the powers of representative government.

I am confirmed in my belief that this is a correct explanation of the agitation, by the fact that the outcry against the reception of convicts from the best-managed penal establishments at home, was most violent in the Port Philip district, where only two years and a half before public associations had been formed, and subscriptions to a large amount collected, for the purpose of importing two thousand "Expirees" from Van Diemen's Land,—men whose punishment had been gone through in the probation-gangs of that island, at the time they were notoriously in the lowest state of demoralization.

But, although I do not believe that our having thought it necessary somewhat to modify the proposal we had made in 1847, and to which the Legislature had given its assent, had in truth much to do with its change of opinion, yet our departure from what had been agreed to, afforded a

plausible ground for that change; and it is not improbable that, if this ground had been wanting, and if what had been proposed had been strictly fulfilled, the Legislature would not have been induced to retract the assent it had given to the reception of convicts. I am therefore bound in candour to admit that, on looking back to what took place at the time, with the advantage of our subsequent experience, it now appears to me that, in not adhering to the arrangement precisely as it had been agreed upon, and announcing when we sent out the first convicts with tickets-of-leave to New South Wales that we would take the earliest opportunity of applying to Parliament for the means of sending out a corresponding number of free emigrants, we were guilty of one of those errors of judgement from which I suppose that no Administration will claim to have been altogether exempt, in the very difficult task of conducting the affairs of this Country.

It is the more to be regretted that a different course was not taken, as, in point of fact, we were enabled in the following Session to propose to Parliament a vote for sending free emigrants to the Colonies which received convicts; the grant was made without difficulty, and has been renewed in subsequent years. The result was unfortunate, since the Legislative Council eagerly availed itself of the opportunity of withdrawing its consent to the resumption upon any terms of transportation to New South Wales, which, —greatly as I am persuaded to its own loss, as well

as to the disadvantage of this Country,—was thus closed to the reception of convicts. It was obvious that the Colonists who were in favour of receiving them, notwithstanding their being a minority, included no small proportion of the most intelligent and enterprising members of society; but we thought it our duty to adhere to the principle I have stated, of looking to the constitutional representatives of the Colonies, as alone authorized to declare the wishes of the community, to which we had announced our determination to conform on this subject.

Despatches were accordingly written to Sir Charles Fitzroy*, pointing out how little foundation there was for the complaints against the course we had taken, and informing him that, the wishes of the Legislature having been now clearly expressed, no more convicts would be sent to the Colony. Eventually the Order in Council, making New South Wales a place to which convicts might be transported, was again revoked. It seems to me that this was the only course we could properly take; but that the Legislature of New South Wales, in requiring us to take it, has deprived the Colony of a class of labourers peculiarly suited to its circumstances and its wants. The estimation in which their services are held by employers may be judged of by the fact, that the 'Hashemy' convict-ship having arrived at Sydney, in June, 1849, when there were four emigrant-ships

* See Despatches to Sir Charles Fitzroy of the 10th and 16th of November, 1849, pp. 46, 51.

lying in the harbour, with about one thousand souls on board, all the convicts (with the exception of four, whose tickets-of-leave it was considered necessary to withhold, and fifty-nine who were sent to Moreton Bay, where labour was urgently required) were within six days, and even before the emigrants, hired by respectable landholders and sheep-farmers* at high wages. The superintendent of convicts added, that he had at the time applications in his office for the services of a larger number of this class of labourers than could be supplied by the arrival of several convict-ships; and in concluding his report, he expressed his great satisfaction "at the high state of moral feeling exhibited in the conduct and bearing of the convicts by the 'Hashemy,' one which made itself apparent to all who went on board that vessel to engage servants." I should mention, that it was the convicts by this ship whom the Governor was called upon, by resolutions passed at a public meeting, to send back to England.

In thus entirely stopping the admission of convicts into New South Wales, the Legislature disregarded the opinions and wishes expressed by the inhabitants of the northern part of the Colony, who have evinced a strong and, as I think, a most reasonable wish for the services of convicts. In the splendid pastoral country communicating with Moreton Bay the want of labour is daily felt more severely by the flock-owners. There is no prospect that this want can be adequately supplied by free immigration,—for this among other rea-

* See Convict Papers, presented January 31, 1850, p. 27.

sons, that free immigrants, even before the discovery of gold, generally preferred other employment to that of undertaking the care of sheep in the remote regions where they are pastured, and leading the solitary life which this imposes upon them. But for the holders of tickets-of-leave, this is precisely the most suitable employment, and one which completely answers the object with which they are required to pass some time in that condition, before they obtain more unrestricted freedom; and as they are under the obligation of residing in the districts pointed out to them, their services may be depended upon, where those of free immigrants could not be so. Hence this district combines every possible advantage for the reception of offenders in this stage of their punishment: it would be for the benefit of the men themselves that they should be sent there, because they would find ample employment of the best kind; it would be greatly for the pecuniary interest of the Settlers, and of the community to which they belong, of which the prosperity mainly depends on the increased production of wool; and lastly, it would be much to the advantage of the Mother-country, now that large supplies of Australian wool have become so necessary to our manufacturers.

The inhabitants of the Northern district of the Colony seem to be convinced, that its being again opened for the reception of convicts is for these reasons desirable. Strong representations to that effect were made by many of the principal landholders two or

three years ago; and public meetings have been held at various times, at which resolutions to the same purport have been carried: in a late newspaper from Moreton Bay I have seen an account of a meeting recently held, at which the absolute necessity of the measure is insisted upon, and very gratifying testimony is borne to the utility and good conduct of the convicts who were sent there during the short interval that this was practicable*.

In this district, as elsewhere, there is a division of opinion on the subject; but there seems no reason to doubt that a large majority of the inhabitants are decidedly in favour of again receiving convicts. It is to be hoped that this wish will not be resisted by the Legislature; but if so, the inhabitants of Moreton Bay have a remedy within their reach, by renewing their application to the Crown for the separation of that district from the rest of the Colony of New South

* One of the speakers, Mr. A. Hodgson, made the following statement, in moving one of the resolutions: "In regard to the introduction of exiles into this district up to the present time little need here be said. They had, with few exceptions, been found to be most useful and valuable servants, particularly the 400 per the ship Bangalore. They were all earning an honest livelihood, at a remunerative rate of wages, and would shortly regain the freedom to which their good conduct so justly entitled them. The recent muster of ticket-of-leave holders was most satisfactory, and proved the assertion of the Anti-Transportationists, that a large number had left this district, to be a fallacy (hear, hear). The exciting news from the gold mines had not had the effect of causing them to absent themselves from their district, and thus risk their liberty for some imaginary gain."

Wales, for which Parliament has provided in the recent Constitutional Act.

This further division of the Colony of New South Wales, was applied for by memorials to the Queen, signed by a large proportion of the inhabitants of the Northern district, many of whom openly declared that their principal object was to obtain the services of convicts. Quite apart from that object, the measure will, probably at no distant period, become necessary on other grounds; and this district is likely to require to be formed into a distinct Colony, for the same reasons that Port Philip has already been so. When we were called upon to consider the memorials to which I have referred, the time however seemed hardly come for this separation. In answering the Governor's despatches transmitting the petitions, an opinion to that effect was expressed, and Her Majesty was advised, without absolutely rejecting their prayer, to refer them back to the Colony for further consideration.

So matters rested when we left Office, and I neither know what may have been since done by our successors, nor what further would have been decided upon by your Cabinet, had it still remained in existence, when the answers to the despatches which had been written were received. But I may be permitted to express my own opinion, that if it had then appeared, that the admission of convicts to the district of Moreton Bay, was as decidedly called for by the wishes of the inhabitants as there was reason to believe, while owing

to the opposition of Sydney it could only be accomplished by a division of the Colony, it would have been right to adopt that measure. At the same time, I think it was to be desired that this division should be deferred, and that the Legislature of New South Wales should be induced to consent to the opening of the squatting districts for the reception of convicts. Could the Legislative Council have been induced to do so, it would have been easy, without dividing New South Wales for other purposes, to have framed an Order in Council, providing for the introduction of convicts into the Colony, but only into a part of it strictly defined, and limited so as to exclude the towns and more settled districts.

It is, I know, considered that the discovery of gold is an obstacle to such a measure, and that it is absurd to punish a man by sending him to a country where gold is to be obtained. Those who make this objection seem to forget, that a man sentenced to transportation cannot hope to be relieved from constraint, so as to be able to join in the exciting search for gold, until he has completed at least half the term of his sentence. It is surely an absurdity to suppose that any man will, from the desire of ultimately making his way to the Diggings, deliberately expose himself to several months of the stern discipline of Pentonville, followed by a year or two, and perhaps much more, of severe labour at Portland, in order to be sent to Australia, where on his arrival he will be required to work hard, far from the gold regions,

without receiving all his earnings for a further period, which may extend to five years or even more.

Those who wish to reach the mines, may do so far more easily than by the road of transportation, nor do I believe that the dread of the punishment will be in the slightest degree diminished by its being known that, after a period of severe endurance, at the end of a time in no case less than three years and a half, and which in general will be far more, convicts who have passed through this ordeal, will find themselves within somewhat easier reach of the gold-fields than they were, before they committed the crimes for which they have suffered. Criminals, of all men, are those who least look forward to advantages so distant, and to be purchased by so much previous privation and suffering; the immediate gratification of their passions is the ruling motive of their lives. But while the discovery of gold affords no valid objection to the removal of criminals to Australia, it has greatly increased the want which is felt there, of the only class of labourers whose services can be calculated on, in order to carry on other and not less important occupations than the search for gold, which draws away by its seductions so many of those who are free to join in the pursuit.

To return, however, from this digression. New South Wales, after the correspondence of which I have given a summary, was, at the end of 1849, entirely closed against convicts from this Country; and the attempt to find new openings for them in other Colonies had likewise failed everywhere, except in

Western Australia, where, after much correspondence and consideration, we succeeded in making arrangements for their reception. That Colony, owing to the original and fatal error of making profuse grants of land to the first Settlers, had dragged on a miserable and doubtful existence, and, at the end of twenty years after its foundation, had a population of little more than 4,600; while South Australia and Port Philip, founded several years later, had grown into thriving communities, attracting annually from the Mother-country, by the aid of their land fund, about twice as many emigrants as there were inhabitants of all kinds in the elder Settlement. At length the prospects of Western Australia had become so hopeless, that there was every prospect of the Colony's being abandoned; when the inhabitants determined, as their only resource, to apply to the Government to have it made a place to which convicts should be transported. This proposal was acceded to, and the necessary arrangements were made for giving effect to it.

The great object we had in view was to provide another place, in which criminals may, after being punished for their offences, be restored to freedom, with a reasonable prospect of maintaining themselves in comfort by honest industry. But it is obvious that at first, so small a community, as one consisting of only between four and five thousand inhabitants, could not afford a demand for the labour of more than a very limited number of such men. It was also abso-

lutely necessary, before convicts could with advantage be sent there as the holders of tickets-of-leave, that a penal establishment should be formed, to which those deprived of that indulgence for misconduct could be sent. Such an establishment also (for practical reasons into which I need not enter,) cannot without inconvenience be formed on a very small scale: hence our plan was to erect the necessary buildings for the accommodation of five hundred prisoners, with the officers and military guard required for their custody and management. A much smaller number were to be sent in the first instance, and chiefly by their labour, the accommodation wanted for the whole was to be gradually provided. The first prisoners sent out, were to be men selected for their good conduct, to whom the grant of tickets-of-leave, at an earlier period than they would otherwise have been entitled to them, was to be held out as an incentive to continued good conduct and exertion. This was a precaution exceedingly necessary, inasmuch as the first who arrived, would find buildings so little suited for the safe custody of prisoners, that much reliance would unavoidably have to be placed upon their indisposition to attempt escape or resistance, from their looking forward to obtaining tickets-of-leave soon after their arrival. The first convicts who arrived, were to be employed in providing, as soon as possible, for the proper reception of those who were to follow; afterwards the labour of those still under coercion was intended to be used in the improvement of the Port.

With regard to their subsequent disposal, it was calculated that the demand of the convict establishment for the various supplies which would be required, would give so great a stimulus to the agriculture and trade of the Colony, that a considerable proportion of those who obtained tickets-of-leave would readily find employment from the Settlers; while for a time it was determined that, to those who could not, employment should be given by the Government. They were to be employed in various works of improvement, such as the construction of roads, calculated to increase the future field for industry, and the erection of cottages for themselves, which they were to be allowed to occupy on the payment of a moderate rent, with the privilege of purchasing them when they could accumulate sufficient means. This could be done at a very moderate expense, since, beyond the supplies they required, their wages would not be in general paid to them in money, but would go in abatement of that debt to the Government with which I have, in an earlier part of this Letter, explained that all convicts were to be charged, as holders of tickets-of-leave. Means were also to be taken for dispersing them through different parts of the Colony, as they were released from coercion.

A military Guard of Pensioners was to be sent out with each convict-ship; measures being taken to settle these men and their families in the Colony, to the free population of which they would form a very useful addition. Each Guard, it was afterwards arranged,

was to continue doing military duty after its arrival in the Colony, until relieved by the next that came; thus giving to the men the advantage of having pay in addition to their pensions, until they had had time to become acquainted with the Settlement, and the means of employment which it afforded. Subsequently the military force was increased by sending out a company of one hundred Sappers and Miners; and as they were selected from men of the trades most wanted in the Colony, the deficiency of skilled labour, which had been one of the great difficulties experienced in carrying on the buildings and other works, was supplied by the same measure, which placed at the disposal of the Governor a military force amply sufficient for any exigency likely to occur. The command of the Sappers was combined with the general management of the whole convict establishment, in the hands of Captain Henderson, an able officer of Engineers, who, before he proceeded to the Colony, went to Portland, to make himself thoroughly master of the system of discipline and of employing the prisoners, which has been pursued there with so much success. Lastly, a grant was obtained from Parliament for sending out a certain number of free emigrants, to guard against the inconvenience of having the population of the Colony composed in too large a proportion of those who had been convicts.

The religious instruction of the convicts sent to the Colony was a subject of some difficulty. While they remained under coercion, they were of course under

the care of the Chaplain; but on their obtaining tickets-of-leave, their dispersion over a wide territory, though in other respects attended with great advantage, was a serious obstacle to their receiving the attention of clergymen, of which it was very important that they should not be deprived. It was ultimately arranged that some additional clergymen should be sent out, whose salaries should be charged partly on the Colonial revenue, partly on the vote for the convict establishment, and who were to be stationed in the districts where their services would be most useful to the holders of tickets-of-leave, but with the care of the free population also.

I have thus given merely the outline of the measures which were adopted: there were of course many details to be provided for, the arrangement of which was a work of much time and labour, in which the able assistance of Mr. Elliot and Colonel Jebb was of the utmost value. These matters were so well attended to, that far fewer difficulties arose in carrying the plan into operation than could have been expected. The principle of the whole scheme, and the object to which every part of it was directed, was not merely to find a mode of disposing of a certain number of convicts immediately, but also to provide a constantly increasing field for their employment hereafter. We believed that, by affording to the small number of Settlers already in the Colony both a supply of labour and an enlarged market for their produce, and undertaking to execute, by convict-labour,

the works most wanted for the profitable occupation of the territory, the great natural advantages of the Colony would be developed, settlers with capital would be attracted, and capital would be accumulated by the present settlers and the most industrious of the convicts when released from punishment, as happened formerly in New South Wales. We expected that a trade with India and the other Australian Settlements would spring up, and that, in the course of a few years, Western Australia would grow into a wealthy and flourishing community, adding to the power and greatness of the British Empire, and affording a wide field for the profitable employment and settlement of large numbers of those who have undergone punishment for their offences.

Hitherto this process has been going on with almost unhoped-for rapidity and success. The first instructions to the Governor, as to the measures to be adopted, were transmitted to him on the 22nd of October, 1849; the first vessel for the conveyance of convicts to the Colony was chartered in the January following, was despatched in the beginning of March, and reached the Colony with seventy-five convicts, and fifty-four pensioners and their wives and families, on the 2nd of June, 1850. Before the close of 1850, 384 convicts had been sent there, all men who were for a time to be detained as prisoners; and in 1851, before the end of July, 598 with tickets-of-leave were sent. By that time, I had learned, that by the active and judicious exer-

tions of Captain Fitzgerald and Captain Henderson (the Governor of the Colony and the Comptroller-General of Convicts), ample accommodation had been provided for 500 prisoners, and that they were usefully employed. Those who have obtained tickets-of-leave have readily found employment, and it appears from the Governor's annual Report, dated the 12th of April, 1852, which has been laid before Parliament, that they are now gradually becoming good farm-servants working at moderate wages; that the Colony is prospering in every respect; various public works which were urgently wanted have been completed; the sale of land, and the taking on lease of that which is available for pastoral purposes, are increasing; a regular trade with Madras and Calcutta has been opened; and, what is most important, the Governor states "that the amount of crime as yet committed in this Colony among all classes, is so slight that I do not feel it necessary to make any unfavourable remark whatever *."

* The following extract from a private letter, which I have received permission to publish from the gentleman to whom it was addressed, gives an interesting account of the success which has thus far attended the experiment of sending convicts to Western Australia.

[Received February 21, 1852.]

"*Perth, Western Australia,*
"*November* 1, 1851.

"The Pyrenees had then just arrived, with three hundred ticket-of-leave men, who have since been distributed, and nearly all are now in private employ, besides others that have become entitled to 'tickets' from the establishment at Freemantle; and it is a matter of

Such is the progress which has been made in Western Australia, in opening a new field for the reception of convicts, when they are released from the first stages of their punishment. It is now the only Colony, except Van Diemen's Land, which is open to them; and though it is, I think, to be regretted that they cannot be dispersed through a greater number of our Colonial possessions, I see no reason to apprehend that these two Colonies may not, with proper management, suffice for the purpose.

But with reference to this point, it will be proper, before I proceed to give an account of transactions in Van Diemen's Land, that I should notice an objection which has been made to our reversal of the decision of

much congratulation that their conduct has been hitherto most exemplary, affording to the working part of the free community in this Colony a most wholesome example, not only in respect to good conduct, but they appear to have imbued them with a degree of activity they did not possess before the introduction of convict labour. The Settlers are not the most sober people. Possibly this may arise from their former want of occupation, and indigency: when the Colony was in a languishing state, and little or no employment offered, the people contracted habits of drunkenness to drown care. At present everything begins to assume a cheering aspect: I see it; though only four months here, I see the change. Everybody is affected by the introduction of convict labour, and the expenditure it brings with it. At first a feeling of distrust and opposition was evinced: this is fast wearing away, and giving place to confidence. The ticket-of-leave men are engaged in private families indiscriminately with the free servants, and are otherwise employed in common with free men. Their general conduct is very superior to that of others in the same sphere of life. This may possibly arise from one or other of two causes,—in some from a determination to alter their course, and in others from a fear of returning to prison.

our predecessors to form a new Penal Colony under the name of North Australia, on the eastern coast of New Holland and north of the 26th degree of south latitude. The plan which had been determined upon, and in which we did not think it advisable to persevere, was to send a certain number of convicts, "emancipated by pardon, by length of service, or as exiles," to form a settlement on a part of the mainland of New Holland which was still unoccupied. It was, in the first instance, to be occupied by exiles from England, who were to be settled on small lots of land; and when, by the assistance of these men, sufficient preparations had been made, convicts from Van Diemen's Land,

"The Settlers, even those who were most opposed to the introduction of convicts, admit that they are more orderly and obedient, and work better, than most of the free men. This was told me by one of the most wealthy farmers here, who has spent several thousands of pounds, and is now, after twenty-two years, reaping some benefit from his labour and capital. His family and himself have experienced great vicissitudes. He had serious intentions, two or three years ago, of abandoning his property, and quitting the Colony.

"I was afforded ample means of judging of the state and working of the system carried out by Captain Henderson and the Superintendant, Mr. Dixon. It appeared to me that much of the good and orderly conduct of the men may be attributed to their treatment in depôt. They are well cared for, have good food, and are well worked; I never saw men work better, or look in better condition. The discipline is excellent: cleanliness, order, and regularity are most conspicuous in every branch; and all this is arrived at under the mildest form of moral restraint. I am informed by Mr. Dixon that the behaviour of the men in and out of barracks is very creditable. The reports from the rural depôts are as satisfactory; they will do much good eventually."

whose sentences had expired, or who had obtained conditional pardons, were to be sent there.

To this scheme it appeared to us, that there were the following decisive objections. In the first place, if convicts were sent to a still unoccupied territory, where there were no Settlers to employ them, no buildings prepared for their reception, no roads of any kind, no fit site for a town yet fixed upon,—in short, where everything was in a state of nature,—it was obvious that the expense to be incurred must be very large (as every fresh attempt to form new Settlements has clearly demonstrated), and that the whole of the convicts who might remain in the Settlement would for a long time be entirely dependent upon the Government for their support. The necessity of providing for them would not be averted by giving them allotments of land. From these allotments they could not possibly procure a subsistence, until much time and labour had been expended in reclaiming and cultivating the land; in the meantime they must be provided for by the Government, and could only cease to be so, when by industry and good management they should have been enabled to obtain a living from the soil. It has always been found a difficult and a costly undertaking, to establish men who have no capital of their own as settlers on wild land, even when this has been tried with carefully selected labourers from rural districts. The experiment was little likely therefore to succeed

with emancipated convicts, whose habits are almost always improvident, and of whom much the greater number know nothing of agriculture.

If it was necessary to provide for these men by settling them on land, it was clear that this might be accomplished with infinitely greater facility in Van Diemen's Land. There is plenty of good land still belonging to the Crown in that island, well adapted for the purpose, and far more accessible than North Australia. In Van Diemen's Land there were likewise available for the undertaking all the resources offered by an existing Colony and by a large Government establishment. Roads to the new Settlements might have been formed by convict labour, in Van Diemen's Land, at a comparatively trifling expense; and no new establishment of Police, Judges, or Commissariat, no additional troops, with the barracks and buildings necessary for all these departments of the public service, would have been required. The enormous amount of the charges which must have been provided for under these heads, if any considerable number of these people had been settled in North Australia, may be judged of by the heavy expense unavoidably incurred in the formation of the penal establishment in Western Australia; although in that Colony there were very considerable resources of all kinds available, and many of the most costly preliminary preparations for taking possession of an unoccupied territory, had already been accomplished.

But further, the great object in the transportation

of offenders is, to avoid forming a society mainly composed of those who have been criminals. It is well known how great were the evils produced, in the earlier days of New South Wales, by the preponderance of the "Emancipist" element in the Colonial society. North Australia would have been a society consisting exclusively of men who had suffered punishment for their offences, unless a few free Settlers were attracted by the Government expenditure.

Against these objections there was to be set but one real advantage, that I am aware of. North Australia was to have been peopled by "Emancipists," that is, by convicts over whom the Government no longer possessed the legal power of exercising any control, unless they should commit some new offences; these men clearly therefore would not have remained in the new Settlement, but would have crossed the mere conventional line dividing it from New South Wales, to seek employment in that Colony, where no doubt there would have been ample demand for their labour. But if this was the object of the proposed new Penal Settlement, I cannot think that it was a legitimate mode of attaining it. Had it been determined, in spite of any objection on the part of the Legislative Council of New South Wales, to make arrangements for giving free passages to the "Expirees" from Van Diemen's Land to Moreton Bay, and to have opened at Brisbane a depôt for the reception of such of these men as might wish to go there while waiting for hire, the demand for labour in

the northern part of the old Colony, would have been made available for those of the emancipated convicts in Van Diemen's Land who could not there find employment, in a manner far less open to objection than the establishment of a new Colony in a portion of territory cut off for that purpose from New South Wales. It would not have been difficult to find arguments of no slight weight in favour of overruling the objections felt, by only a portion of the Colonists of New South Wales, to allowing those who have been convicts to come there; but if this course was considered unadvisable, and an intention of respecting these objections was professed, I do not think that it could be right to send the same class of persons, whose direct removal to New South Wales was abandoned, to a new Settlement immediately adjoining it, where there was nothing to detain them even for a single day, and whence there was no room to doubt they would immediately resort to it.

I have now to give an account of what has taken place in Van Diemen's Land with reference to transportation,—the Colony to which of all others the measures adopted on this subject have been of the most vital interest. I have already described the condition in which we found the Island on our accession to Office; and I have stated the substance of the instructions with which Sir William Denison was furnished, as to the measures he was to adopt in order to correct so frightful a state of things. These instructions were very ably acted upon. A complete reform in the

buildings, in the staff of officers, and in the system of discipline and of employing the convicts, was rapidly accomplished. By reducing as much as possible the number sent to the Colony, and afterwards giving the majority of those who went there tickets-of-leave, instead of sending them to the probation-gangs, the Lieutenant-Governor was enabled to reduce the number of convict-stations, and to provide, without incurring any very large expense, for putting those which were retained on a proper footing both with respect to buildings and officers. At the same time by introducing a system of task-work and a strict but just discipline, active industry and good order were made to take the place of idleness and the grossest irregularity among the prisoners.

These measures of improvement were extended to Norfolk Island, where, as I have shown, they were even more necessary than in Van Diemen's Land. My first impression was, that this island ought to be abandoned as a penal settlement altogether; but this could not be immediately accomplished, from the total want of any means of disposing of a large proportion of the criminals who were there; and afterwards a strong opinion against giving it up was expressed by Sir William Denison and Dr. Hampton, on the ground of the great assistance derived from the existence of such a further place of punishment, in maintaining discipline in Van Diemen's Land. This opinion carried with it so much weight, that we decided (though not without

reluctance) that the penal establishment in Norfolk Island must, for the present at least, be continued. I am not unaware of the advantages this Island possesses, in some respects, for penal purposes; but, on the other hand, from its remoteness and the delay and difficulty of communicating with it, there must always be danger of abuses arising there (as they have done before) which may too long escape discovery and correction. If the establishment should be permanently retained, much care and vigilance will be necessary to guard against this danger.

Important as it was to re-establish discipline among the convicts in charge of the Government in Van Diemen's Land, it was perhaps even more so to restore that Colony to a condition in which it might afford them employment and an eligible abode, when they should be relieved from direct coercion, and become entitled to tickets-of-leave or conditional pardons. With this view the Lieutenant-Governor had been instructed to take measures for settling on land, those for whom employment could not be otherwise found. But as we were well aware of the great difficulty of doing this, it was only to be attempted as a last resource, and the great object was, if possible, to create a demand for their labour. This, it appeared, could only be done by developing the natural resources of the Colony, and by undertaking various public works and improvements which were calculated, by affording new facilities for agriculture and trade, to give a stimulus to private enterprise and industry.

By the instructions which had been given by our predecessors for requiring payment from the Colony for the labour of convicts so employed, an unfortunate obstacle had been opposed, as I have mentioned, to undertaking works of this description; the more so as, from the same desire to reduce the charge to the British Treasury on account of the penal establishment, when the application of £24,000 towards the expenses of the Colonial Police, from the Parliamentary vote for convict services, was sanctioned, it was required that, in consideration of this grant, the land-revenue should be paid into the Military Chest, instead of into the Colonial Treasury. We considered it right to remove these obstacles to the more useful application of the labour of the prisoners; we therefore adopted the rejected suggestion of Sir Eardley Wilmot, that, for convicts employed on works of the description alluded to, the charge against the Colony should be limited to the cost of tools and of the extra superintendence required in directing their labour.

With regard to the territorial revenue, we instructed the Lieutenant-Governor that, after repaying by instalments the advances obtained by Sir Eardley Wilmot, the remainder was to be applied in improvements calculated to increase the value of the land sold, on the principles which I have fully explained in my last Letter. It was our expectation that, by so expending the territorial revenue, we should encourage the sale of land and the settlement

of the districts still unoccupied, and should promote the accumulation of capital, thus increasing the demand for labour. By these instructions the Lieutenant-Governor has been enabled, since he reached the Colony, to accomplish many works calculated greatly to promote the object we had in view. He has commenced, and I hope made considerable progress in, a more regular and correct survey of the Colony than had yet been attempted; thus removing an obstacle to the easy and safe acquisition of land by Settlers, and getting rid of a fertile source of difficulty and litigation, by ascertaining correctly the boundaries of land sold or granted to different individuals. He has undertaken the construction of wharfs and basins, which, when completed, will greatly increase the facilities for carrying on the trade of the two principal ports of the Island, and already do this to a considerable extent. By various roads and bridges he has opened additional land both for agriculture and for pastoral occupation. There is, more especially, a fine pastoral district to the westward of Hobart Town, which had hitherto been entirely inaccessible, and which works of considerable magnitude, now approaching to completion, will render easily available.

These various measures have been attended with a success far beyond what could have been hoped, when the Colony was in the state of extreme depression to which it had been reduced in 1846. Even before the discovery of gold in the neighbouring Colonies had stimulated the demand for labour, the worst

of the difficulties the Lieutenant-Governor had to encounter were completely surmounted. The number of convicts eligible for hire on the hands of the Government had been greatly reduced, few remaining but those whose inefficiency as labourers prevented any demand for their services. The new arrivals (except some of the Irish, in whose case also want of skill as labourers was the obstacle to their being employed) were in general speedily engaged; and the success with which various branches of industry were prosecuted, and the great extension of trade, afforded every reason to hope that the demand for labour would continue to increase.

Since the discovery of gold in New South Wales and Victoria, I need hardly say that the command of convict labour has been of the greatest benefit to Van Diemen's Land. If the Settlers had depended chiefly on the supply of labourers free to go to the Diggings, which were within easy reach, it is difficult to see how it would have been possible to prevent the entire interruption of many of the most important branches of the industry of the Colony. As it is, with the supply of labour they derive from transportation, and the unlimited market for their produce, which the sudden influx of population into the adjoining Colonies has occasioned, the prospects of the Settlers in Van Diemen's Land are in the highest degree promising, and the only ground they have for apprehension is that the supply of convict labour will probably fall far below their wants.

So far as their material interests are concerned, I am not aware that any difference of opinion can exist, as to the very great advantage which Van Diemen's Land, in its present circumstances, must derive from receiving convicts. But it is alleged that these material advantages are far more than counterbalanced by the great moral evils arising from transportation; that the Colonists feel the latter so acutely, that they would willingly forgo any pecuniary benefit they may derive from the continuance of the existing system; and that it is unjust and tyrannical in the British Government and Parliament to compel them to submit to what is so injurious and hateful to them.

Confidently as assertions to this effect have been made, I am persuaded there is little foundation for them. Looking back at the history of Australia for the last sixty years, I see nothing to justify the conclusion that, upon a fair balance being struck between the good and the bad moral results of transportation, even as it has actually been conducted, the bad would be found to preponderate. No doubt great evil resulted from the creation of a society in which the convict element (if I may use the expression) predominated so much as it formerly did in New South Wales. No doubt great moral corruption and great physical suffering were produced, by the manner in which convicts were formerly conveyed to the Colony, and by the system (or rather absence of all system) of management to which they were subject, both during the passage and on their arrival. Before public atten-

tion had been seriously directed to the subject, frightful abuses certainly occurred in the transportation of offenders; even when the practice of assignment was established, there were still abuses; and, as I have shown, the probation system, which was substituted for it in 1842, was still more open to objection. But with all these errors in the mode of conducting transportation, when we look at what the Australian Colonies are at this moment, and consider that these communities have been created by it (for it is notorious that the penal settlements afforded the means of founding the others), I think it would be difficult to deny that, if the scheme of sending convicts to Port Jackson has worked much evil, it has worked still greater good.

There is another light in which the subject may be considered. In the year 1850 I caused a calculation to be made, from the various sources of information to be found in the Colonial Office, to ascertain, as nearly as possible, what might be the total number of persons then living in the Australian Colonies, who had originally been prisoners, but who were actually in the enjoyment either of entire freedom, or of that degree of freedom which is conferred by tickets-of-leave and conditional pardons. The result of the investigation was to show that the number of such persons in those Colonies could not be less than 48,000; and out of this large number, those who were not in some way or other maintaining themselves honestly, either by their labour or by the property they had acquired, were so few, that they formed

a mere fraction of the whole. Had they remained in this country, the case would have been very different; and I fear that, instead of its being the majority that would have been doing well, and the few who were still living by habitual violation of the law, the latter would have been the rule, and the former the exception.

It has been repeatedly proved that, when a man has once been led into living by dishonesty and plunder, nothing is more difficult for him, after having been punished for his offences, than to find the means of honestly maintaining himself in this country. However anxious he may be to do this, and to abstain from breaking the law, his previous course of life closes against him almost every honest career, while it is hard for him to shake off his old associates, who drag him back again into his evil practices. There are many well-authenticated and remarkable accounts of the sincere but fruitless efforts made by men who have been habitual criminals, to take to a different and honest course of life. Hence, if we look to the Empire as a whole, it seems to me that in a moral point of view far more good than evil has resulted from a system by which the 48,000 persons, now for the most part maintaining themselves honestly in Australia, have been sent there, instead of being allowed to remain in this country a burden on society and to themselves, like the *forçats libérés* in France.

It is said however that this is not the light in which the subject should be considered, and that, even grant-

ing the moral advantages of transportation to preponderate over its evils, looking at the Empire as a whole, still it is not just to the Colonies to continue the system when the evils fall exclusively on them, while the advantages are all on our side. Even if it were true that all the advantages (in a moral point of view) derived from the system of transportation fell to the share of this Country, the above argument would not perhaps be conclusive; but it must fail altogether, if it should appear (as I have no doubt it will on careful investigation) that, without looking beyond the Colonies, it is not the fact, that the moral evils arising from transportation have been nearly so great as they have been represented, while its compensating advantages have been overlooked. With regard to its compensating advantages, I would call your attention to an important remark in a Report made in the year 1847, by a Committee of the Legislative Council of New South Wales on immigration. It is stated in this Report* that "the advanced rate of remuneration for labour is not the only evil attending its deficient supply; nearly all the witnesses concur in the statement, that the absence of competition amongst the labourers is productive of restless and unthrifty habits; they are becoming less efficient and less attentive to their duties, because a servant of any description now knows, if he be discharged from his place even without a character, he can obtain other employment immedi-

* See Papers on Emigration to the Australian Colonies, presented by Command, in August, 1848, p. 7.

ately." There is much other information to the same effect, and I believe it cannot be doubted that, in Colonies where there has been a great scarcity of labour, the competition of convicts has had a decidedly good effect on the conduct of the free emigrant labourers.

I would further observe, that the arguments commonly used upon this subject by speakers at public meetings in the Colonies, would seem to imply that they suppose all free immigrants to be moral and excellent persons, and all convicts irredeemably vicious. There can be no greater error than such a supposition: it by no means follows that, because a man has never been convicted of any offence against the law, he must necessarily be a person of virtuous habits and irreproachable conduct; and, in point of fact, it is notorious that among those who emigrate from this Country, as among those who in the United States act as the pioneers of civilization in the far West, there is a much greater variety of characters than among an equal number of persons in our Home population. It is impossible that it should be otherwise, since the energy and enterprise which best fit a man for the hardships of a settler's life, are by no means most commonly found in those who are also distinguished by steadiness of character and of conduct.

On the other hand, among the convicts there are very many who have not been habitual criminals, but who have been led into the commission of some offence for which they have incurred the sentence of the law, by bad example or by some sudden temp-

tation; and such men, after having undergone their punishment, are perhaps less likely again to misconduct themselves than those who have never experienced the consequences of doing so. Even of those who had been habitual criminals in this Country, and whose living had long been obtained by plunder, it has been ascertained beyond all doubt that a great majority, when removed from their former temptations and dispersed over the territory of New South Wales as assigned servants, very generally became once more useful members of society. If this occurred under a system confessedly most imperfect, it is surely only reasonable to expect that it will be still more generally the case now, when it is considered how greatly the prisons of these days are superior to the hulks from which convicts were formerly sent to New South Wales, and how great is the contrast between the order and discipline of a modern convict-ship, and the confusion and license of one of former times. Indeed the existing regulations have been long enough in force to enable us to judge of their results, and I have noticed the very satisfactory testimony which has been borne to the singularly good conduct of the prisoners sent out under them to the Colonies. I do not mean to express my belief that, in any large proportion of cases, convicts are changed in heart and disposition. Many of them I trust are so by the blessing of God on the exertions of the chaplains, and the time for reflection afforded during the period of separate imprisonment. But I fear that in all societies the really

good and religious, those who do what is right, and from a right motive, are a minority; it would therefore be unreasonable to expect more from the generality of those who have incurred the sentence of the law by their offences, than that they should have learnt, by the punishment they have gone through, to conform outwardly to the laws they had been in the habit of breaking, and should conduct themselves peaceably and properly towards those among whom they live.

Now that the emancipated convicts do so conduct themselves in Van Diemen's Land, and that in this Colony there exists a perfectly orderly state of society, with complete security for person and property, there is abundant testimony; and I might cite the evidence to that effect of many trustworthy witnesses, including naval and military officers, who have recently visited the island, and have expressed the highest satisfaction with all they have seen. But without referring to any other witness, it will be sufficient to call your attention to the following extracts from a private letter I received some months ago from a gentleman in Van Diemen's Land, which contain an amusing and graphic description of the fears of a new comer, founded on the accounts of the state of the Colony that have been so diligently published, contrasted with the real security which exists. I have not scrupled to publish these extracts, without any express permission, as I cannot doubt, from other parts of his letter, that no objection to my doing so would be felt by the writer, —a gentleman, I would add, upon whom the utmost

reliance may be placed. After stating that he left England and went to Van Diemen's Land "with the worst forebodings and prejudices," and after describing all the attempts which were made on his arrival to enlist him in the Anti-Convict League, he proceeds as follows:—

"In the dearth of accommodation within the rounds of the police, I was glad, after living three weeks in the ship, to take a lone house three miles from Launceston, on a road not patrolled, with a navigable river in its front, and dense bush behind it. My neighbours, at the distance of a long half mile, are a farmer who was a convict, a smith, a shoemaker, and a joiner, all of whom had been in the same predicament; and thus, with my seven dogs, and my pistols distributed amongst my English and German servants, I awaited my fate. My German governess, whose father is a captain in the Frankfort service, loaded a double-barrelled gun; and my German butler contrived to have a complete armament in his bed-room: he put strings to a miserable dinner-bell, and on the least alarm we went our nightly rounds. We have a nasty ugly hill between us and the town, where the horses must walk, and where there is cover for highwaymen, so it was long a question whether I, the master of the house, ought to be out after dark, and whether we could safely accept dinner and dance invitations in the town.

"Tomorrow I shall have been six months in my lone house. I went into my pantry yesterday, and

my butler's pistols were not loaded. My German governess sent her double-barrel to be cleaned, and has not asked for it again. The plate is no longer brought regularly into my bed-room. I leave my forty-guinea 'Mortimer' double-rifle in my study at the other end of the house. I have a convict coachman, a convict gardener, and some farm labourers, who were sent out here. My coachman and gardener live on the premises; we seem to have altogether ceased to feel alarm. We are out at all hours of day or night, without precaution and without apprehension. I have begun this letter in this somewhat trivial manner, because I think that one personal case is better than a quantity of generalization. But I may go on to say, that we have spent days and nights in other settlers' houses, far more lonely and unprotected than our own,—houses built at different times, like our old English manor-houses, full of corners and crevices, steps up and steps down, with fastenings to doors and windows of most untrustworthy description. I have walked through the dense bush, and driven miles and miles over roads where escape by means of speed had been impossible. Cheap living, a healthy climate, abundance of pleasant employment, a firm Government, an active police, and, I may add, comfort even in the prisons,—these, and especially the three first, guarantee safety to our lives and property. . . . .

. . . . "I have lived in three country towns in England, and three years in London. I was one

winter in Paris. I have spent, altogether, five years in Germany. I am competent to say conscientiously, that I have never been in better regulated, more quiet towns, than Hobart Town and Launceston. The country districts are the same. The road-side inns stand open, there are all sorts of shops in the villages, and people of all vocations go about their work as cheerfully and pleasantly as they do anywhere in England."

I think that this letter, supported as it is by so much concurrent evidence, especially in Sir William Denison's despatches, completely negatives the supposition that the Colony of Van Diemen's Land is suffering, in the manner asserted, from the continuance of transportation. It is however contended, that even if the Colonists are mistaken as to the extent of the injury inflicted upon them, still it is not right to compel them against their will to submit to the continuance of a system to which they so much object. I confess I doubt very much whether the opinion of the Colonists is so much against transportation as is supposed. In the Colonies even, more than at home, real public opinion—the opinion which is entitled to consideration and respect—is not always to be gathered from clamour and from the newspaper press; and there are not wanting strong symptoms of the artificial character of the agitation got up by the Anti-Transportation League, and of its being supported by no earnest and sincere opinion on the part of many of those who have, from various motives,

thought fit to join it. The most decisive indication of this is to be found in the fact, that every ship laden with convicts which has lately arrived, has led to applications for their services two or three times more in number than the men who have been brought; and that although one of the rules of the League is that none of its members are to employ convicts, yet practically many of them are found not the least eager of the numerous candidates for this description of labour.

Even, however, if there were a much greater concurrence of genuine opinion in Van Diemen's Land against the continuance of transportation to that Colony than I believe there really is, I should not be prepared to admit that, under all the circumstances of the case, this Country is called upon to defer to that opinion, by taking a course of which it is at least doubtful whether it would not be really injurious to those who ask for it, while it clearly would be very much so to the Empire considered as a whole. It is to be remembered that Van Diemen's Land was founded for the express purpose of receiving convicts; that it has been fitted to answer that object by an enormous expenditure on the part of the Mother-country, by which not only all the buildings required for the penal establishment, but the greater part of the roads and public works throughout the Island, have been provided. The free inhabitants consist either of those who have of their own accord settled there for the sake of the advantages to be derived from this large expenditure and from con-

vict labour, or of the children of those who have done so; and for these persons now to prefer a claim to have the sending of convicts to the Island discontinued, just when it has been brought into the condition in which it is best suited for receiving them, seems to me to be a pretension which is altogether unreasonable. The demand of the inhabitants of the other Australian Colonies, that convicts should no longer be sent to Van Diemen's Land, because when they become free they cannot be prevented from going to the neighbouring settlements, is not more tenable.

Australia was originally occupied by this Country exclusively for penal purposes. When it was decided that New South Wales, in deference to the wishes of its inhabitants, should cease to be a penal Colony, a concession was freely made to them which could not have been demanded as a right, and which gives them no claim whatever to ask that the whole of that extensive region of the earth should, for their convenience, be closed against British offenders. What is now the Colony of Victoria, was first settled as a part of New South Wales while still a convict Colony; and the means of forming the settlement, and the resources by which it was carried forward to such early prosperity, were drawn from Van Diemen's Land, and derived mainly from the labour of convicts.

South Australia was also voluntarily placed by its founders in the neighbourhood of existing penal Colonies, for the sake of the assistance to be obtained from the various resources they afforded. With what justice then can those who have for their own conve-

nience settled in that part of the world, which the Government and Parliament of this country had previously selected for the reception of convicts, now claim that, when they have obtained from the system all the advantages they desire, it should, to meet their wishes, be discontinued, though this would be attended with great and manifest injury to the interests of the Empire?

For these reasons I must maintain that this Country is perfectly justified in continuing the practice of Transportation to Australia; the Colonies being only entitled to ask, that in the arrangements for conducting it, their interests and welfare should be consulted as far as possible, and that, with regard to the expense incurred in these arrangements, they should be generously dealt with. The statement I have made will show that these conditions were not neglected during your Administration, and the whole policy of this Country towards the Australian Colonies, while it was conducted by us, will, I am persuaded, be pronounced by those who will take the trouble to investigate the facts in a candid spirit, to have been just and considerate as well in what relates to the transportation of offenders, as in all other matters*.

October 30th, 1852.

* See Mrs. Meredith's interesting work on Van Diemen's Land, published since this Letter was written, for strong evidence in support of the statements I have made as to the effect of transportation to that Colony.

LETTER IX.

AUSTRALIAN COLONIES.— CONSTITUTIONS.— GENERAL CONDITION OF THESE COLONIES.

My dear Lord John,

There still remain to be considered, with reference to the Australian Colonies, the proceedings which have taken place as to the changes in the form of their government, and their general condition at the end of your Administration. The measure we brought forward for settling their constitutions, was very fully discussed in both Houses of Parliament in the Session of 1850; and I should be compelled far to exceed the limits within which I am anxious to confine these Letters, if I were to attempt to give even an outline of the Bill we proposed to Parliament, of the considerations by which we were guided in framing it, and of the arguments which were urged against many of its provisions. I will therefore content myself with making a few somewhat desultory remarks on the origin of the Bill, and on some of

the most important points which arose in the debates upon it.

We found, when we came into office, that there had been much correspondence on the propriety of dividing what was then the district of Port Philip from the Colony of New South Wales, of which it still formed a part; and it was apparent that there had come to be a tolerably general concurrence of opinion as to the necessity of this measure, which had in the first instance been vehemently opposed in the older part of the Colony. It was also our opinion, that the time was come when a representative form of government, which already existed in New South Wales, ought to be established also in Van Diemen's Land and South Australia, and that provision should be made for extending the same boon to Western Australia as soon as its inhabitants should be prepared to take upon themselves the expenses of their civil government, instead of having them provided for by an annual Parliamentary vote. Neither of these objects could be accomplished without the aid of Parliament, and there were many obvious reasons for including in a single Act the provisions required for both.

In the year 1847 a despatch was therefore addressed to Sir Charles Fitzroy, informing him of our intention to submit to Parliament a Bill upon this subject; and that in this Bill we should endeavour to amend the existing constitution of New South Wales, as established by the Act of 1842, in two material respects.

We proposed, in the first place, to revert to the ancient form of Colonial Constitutions, and to divide the Legislature, in which the representatives of the people and the nominees of the Crown had hitherto sat together, into two Houses. In the second place, adverting to the obstacles which had hitherto prevented the important clauses of the Act of 1842, for the establishment of Municipal bodies, from being brought into effective operation, the Governor was told that, "it will be necessary to consider what changes ought to be made in the existing law for the creation of municipalities in order to secure to those bodies their just weight and consideration, and especially whether, with that view, they may not be made to bear to the House of Assembly the relations of constituents and representatives*."

The publication in the Colony of the Despatch conveying to the Governor the above information as to our intentions, was followed by strong manifestations of opinion against the contemplated measure; and petitions, very numerously signed, against any change in the constitution which had not been previously assented to by the Colonists, were transmitted home by Sir Charles Fitzroy. It appeared to us that this was a reasonable demand, and that, when representative institutions have once been conferred upon any Colony, the form of those institutions ought not, without some very grave reason, to be altered by Parliament contrary to the wishes of those to whom they

* See House of Commons Sessional Paper of 1848, No. 715, p. 5.

have been granted. A Despatch was accordingly addressed to Sir Charles Fitzroy, in which he was informed that, in recommending to Parliament the division of the Colony, no change in its constitution, beyond what might be necessary to give effect to that measure, would be proposed.

Before submitting to Parliament any Bill upon this subject, we were of opinion that it would be expedient it should be carefully inquired into by a Committee of the Privy Council. At the time when there was no separate Secretary of State for the Colonies, the most important matters relating to them were habitually referred by the Crown to the Committee of Council for Trade and Foreign Plantations; but although this Committee retained its ancient name, and though, with reference to the confirmation or disallowance of Colonial laws, the decision of the Crown was always made in the form of Orders in Council founded on the reports of this Committee, for many years the real functions of this department had been confined to matters of trade, and it had been in the habit of rendering very little assistance to the Secretary of State in the administration of Colonial affairs. We considered that, upon certain Colonial subjects, the ancient practice of calling upon the Committee for Trade and Foreign Plantations to act as a deliberative body might be usefully revived; that this would be the means of rendering valuable aid to the Secretary of State and the Cabinet in deciding upon questions of importance, and also

would afford an opportunity for placing the reasons for the decisions adopted by the Crown, on the advice of its Servants, on record, in a more formal shape than that of a mere despatch.

With this view the Queen was advised to add to the ordinary members of the Board of Trade, Lord Campbell, then Chancellor of the Duchy of Lancaster, Sir James Stephen, and Sir Edward Ryan; and to refer to the Board thus augmented, amongst other questions, that as to the best mode of effecting the contemplated changes in Australia. In the beginning of 1849 this Committee, after much careful consideration of the subject, made a Report, in which they stated their views as to the course which ought to be adopted; and this Report, having been approved, was submitted to the Queen in Council for confirmation, after which it was laid before Parliament, and transmitted to the Colonies*. A Bill, framed in strict accordance with the recommendation of the Committee, was prepared and brought into the House of Commons the same Session; but, from the pressure of other business, it was impossible to proceed with it, and it was postponed till the next year.

In 1850 the subject of the Australian constitutions was recommended to the attention of Parliament in the Queen's Speech, and it occupied a large portion of the time of the House of Commons during the Session. Several provisions of the Bill encountered in that House much opposition, and it gave rise to

* See Appendix (I) of the First Volume.

exceedingly protracted debates, but was eventually passed without any material alteration. In the House of Lords it was also very fully discussed, and passed with two somewhat important amendments, to which we thought it right to agree. The one was an alteration of the franchise of electors, calculated to give a fairer share in the representation to the occupiers of pastoral land; the other was the omission of the clauses by which it was intended to empower the several Colonial Legislatures to constitute a sort of Congress, in which matters affecting the interest of more than a single Colony might be dealt with. The first of these amendments effected a change which we had always considered to be expedient in itself, and our only reason for not having originally introduced it into the Bill, was a doubt whether it would not be more in accordance with the principle of the measure, to leave this change in the franchise to be made by the Colonial Legislature. The second amendment involved the postponement of an arrangement, of the ultimate necessity for which no doubt can, I think, be entertained; but it was successfully shown that the clauses, as they stood in the Bill, would not have been sufficient for their object, and that it was hardly possible to correct them in this respect, without previous communication and concert with the local Legislatures. With these alterations the Bill was finally passed.

To this slight account of the origin of the measure, and of the proceedings upon it while it was before Parliament, I will add a few remarks on its substance,

and on some of the points which led to most discussion during its progress. The principle of the Bill was that of making the least possible change in the actual constitution of New South Wales, when dividing that Colony into two, and of establishing the same form of government in the new colony of Victoria, and in Van Diemen's Land and South Australia; with a provision that it should also be extended to Western Australia whenever the latter should be prepared to take upon itself the charges of its civil government.

But in maintaining unaltered the form of government actually existing in New South Wales, and extending it to the neighbouring Colonies, we induced Parliament to invest the local Legislatures with large powers of making (subject to certain conditions) whatever changes in their institutions or in their laws might from time to time be found necessary. Hitherto the power of amending Colonial constitutions, which have been granted by Act of Parliament, had always been reserved by Parliament to itself. ' By the New South Wales Act of 1842, no power was given to the Legislative Council of altering any clauses in that Act, however inconvenient they might prove, or of making even the most minute variation, in the amount of the large sums, which the schedules of that Act had made applicable to certain heads of service. This had led to no little embarrassment, particularly in respect to the Municipalities which the Act of 1842 proposed to create, but which it had been found

impossible to bring into effective operation. In our opinion it was improper that the power of the Colonists to adapt their institutions, to the changes in the circumstances which are taking place so rapidly, should be thus restricted.

In our older Colonies, the constitutions of which were originally granted by charters from the Crown, there is no such restriction on the power of the local Legislatures to effect, with the concurrence of the Crown, the reforms which may be found necessary. We saw no reason why a different rule should be applied to Australia, and we therefore introduced into the Bill clauses investing the Legislative Councils with the most ample power of amending the constitutions thus granted, and of altering the appropriation of the sums which, by the schedules of the Act, are made applicable to certain purposes. It is only required that changes of this kind should be effected by laws passed for the purpose, to which of course the assent of the Crown is necessary. Whether it can properly be advised to give that assent, is a question on which the responsible Servants of the Crown must in all cases exercise their discretion. With respect to bills for effecting constitutional changes, Parliament has reserved to itself the power of exercising some control, by requiring that they shall be laid before both Houses before they receive the Royal confirmation. This extension of the power of the local Legislatures was much objected to in the House of Lords; but I observed with satisfaction, in the last Session, that upon

further consideration, Her Majesty's present advisers thought it right to introduce the same provision into the New Zealand Bill of this year, and it passed the House of Lords without opposition.

The part of the Bill which met with most opposition was that, by which the Legislatures of these Colonies were to be formed on the model of that of New South Wales, which, by the Act of 1842, was a single Chamber, of which two-thirds of the members were elected by the inhabitants, and the remainder nominated by the Governor on behalf of the Crown. It was vehemently contended that both the opinion of the greatest political writers and experience, were clearly in favour of the division of the Legislature into two Chambers, and various motions were made with the view of altering the Bill accordingly.

Even if the validity of the arguments in favour of dividing the Legislature into two Chambers had been admitted to their full extent, it would have been impossible to accomplish this by the Bill then before Parliament, without entirely altering the principle upon which it was founded. It was the object of the measure to meet the wishes strongly urged by the Colonists in numerous petitions*, by making no material alteration in the constitution of New South Wales, upon which they had not had a previous opportunity of express-

* Several of these petitions will be found in the "Correspondence on the subject of Australian Colonies Government Bill, presented to both Houses of Parliament by command of Her Majesty, on the 1st of March, 1850."

ing their opinion. It was true that the question of dividing the Legislature into two Chambers had been discussed in the Colony, enough to show that if there was no decided opinion in favour of such a change, there was at all events no general objection to it. Still it was quite clear that the alteration would be very unpalatable, unless the upper Chamber were made in some way or other elective; while no mode of introducing the principle of election into the composition of this branch of the Legislature had yet been suggested, of which it could be said that any considerable number of the Colonists were likely to approve.

This was undoubtedly the main reason which led us to bring forward the Bill in the shape we did, and to resist its alteration*. But I must add, that the close attention it was my duty to give to the working of various Colonial constitutions, while I held the office of Secretary of State, led me to alter a good deal the opinion I at first held, in common with most other persons, that a Legislature divided into two branches is in itself greatly to be preferred in all cases to one composed of a single Chamber. I now consider it to be very doubtful, at least, whether the single Legislature ought not under many circumstances to be preferred. If an Upper Chamber could be constituted in such

* See the Debates; also the Report of the Committee of the Privy Council, already referred to, and the Despatch to Sir C. Fitzroy of July 31, 1848; p. 39 of the papers presented to Parliament on the 1st of March, 1850.

a manner, as to have substantial weight and authority, and to be thus capable of exercising a salutary check upon the representative Assembly, while, at the same time, effectual provision were made against the machine of government being brought to a stand by differences between these two bodies, the advantage of such a constitution of the Legislature could not well be contested. But to accomplish this, is a problem not yet solved by any Colonial constitution of which I am aware.

The attempts hitherto made to create in the Colonies a substitute for the House of Lords, have been attended with very moderate success. Legislative Councils composed of Members appointed by the Crown have, in general, had little real influence over public opinion, while they have been attended with the great disadvantage of rendering the Assembly less efficient, by withdrawing from the scene where their services might be most valuable, some of the persons best qualified, by the enjoyment of a certain degree of leisure, by their character and their ability, to be useful members of the popular branch of the Legislature. The number of such men in the small circle of Colonial society is necessarily limited; hence it seems inexpedient that any of them should be taken away from the Assembly, which must always exercise the largest share of power and influence. And as it is found, that the character of every legislative body is greatly altered for the worse, by its being composed of too small a number of members, the effect of dividing the Legis-

lature into two Chambers, in a community not numerous enough to furnish more than a few persons qualified for such duties, is to substitute two comparatively ineffective bodies for one of a superior character.

On the other hand, the experience of the few years that the Constitution of New South Wales has been established, has shown that very considerable advantage arises from the presence in the Legislature, of a certain proportion of members, who do not owe their seats to popular election. The members appointed by the Crown, being only one-third of the whole body, can never prevent the passing of measures which are strongly supported by public opinion, as they might (and as experience elsewhere shows they often would) if they sat by themselves, as a separate branch of the Legislature. But though they cannot defeat such measures, they can ensure their being fully discussed, and not passed, without a previous consideration of any objections, to what may be the mistaken demands of an excited and ill-informed popular feeling.

It is of the utmost importance, that in all legislative assemblies both sides of all disputed questions should be heard, and that those who hold what is not the popular opinion of the day, should be represented. But from the nature of Colonial societies, there is a great danger that this may not always be the case, if all the Members of the Assembly must be returned by popular election; since there are occasions when able and upright men may fail to be elected, from

the very qualities which render it most desirable that they should be so, in consequence of their being too judicious to be misled by some delusion of the moment, and too honest and independent to profess to share in it, contrary to their real opinion. To prove that the Members of the Legislature nominated by the Crown are not those who stand lowest in public estimation, it may be sufficient to mention, that the first Legislative Council of South Australia, under the recent Act, by a unanimous vote, chose for its Speaker a member of this class.

While there are these advantages in the form of constitution originally given to New South Wales, and now extended to the neighbouring Colonies, it also makes provision, by another arrangement, for that revision of laws before they are finally passed, which it is considered one of the chief objects of the division of the Legislature into two branches to ensure. By the Act of 1842, the Governor is invested with the power, when any Bills are tendered for his assent on behalf of the Crown, of returning them for the consideration of the Legislative Council, with any amendments he may think it right to suggest; instead of being compelled, as in other Colonies, to give or withhold his assent, from measures in the precise form in which they are presented to him. There is a further security against hasty legislation, in the power which belongs to the Crown of disallowing Colonial laws, even after they have been passed by Governors. It not unfrequently happens, that the Servants of the

Crown advise Her Majesty to delay her confirmation of Colonial laws, until the local Legislatures have had an opportunity of reconsidering and amending them; nor would it be difficult, in the records of the Colonial Office, to find repeated instances of great improvements in the legislation of the Colonies having been due to the exercise of this power*.

Another part of the measure which has led to much discussion, but perhaps more in the Colonies than in

* Since this Letter was written, I have seen reports of discussions in the Assembly of Canada on proposals for reforming the Legislative Council of that Province, tending strongly to confirm the opinion I have expressed above. It appears, from the debates in the Provincial Parliament, and from the articles on the subject in the Canadian newspapers, that the present constitution of the Legislative Council is almost universally disapproved, but that there is much conflict of opinions as to the manner in which it should be altered. I have not had an opportunity of following the discussion very closely, but, from what I have read of it, I should infer that all who have taken part in it have been far more successful in pointing out objections to the schemes they have opposed, than in defending their own, and that there is not one of these plans which would be likely to answer. I observe, that this has led to the question being raised, whether it is necessary to have any second Chamber at all. I believe that there is good reason for this doubt, and that, in the present state of Canada, the best mode of dealing with the subject would be to abolish the Legislative Council altogether, and to enlarge the Assembly, giving to the Governor the power of nominating a small proportion of the members (by which seats would be secured for the members of his Executive Council), and also the right of returning Bills with amendments, as in Australia. The Provincial Parliament is not invested, by the Union Act of 1840, with the power of altering its provisions or introducing constitutional reforms; but it is not probable that Parliament will withhold, from the largest and most advanced in its social condition of all our Colonies, a power which they most of them now possess.

this Country, is that relating to the appropriation of certain amounts of money from the revenue of the several Colonies for the maintenance of their religious establishments. I believe the great majority of persons in this Country, will concur in thinking it highly desirable that these establishments should not only be maintained, but increased. For my own part, I entertain the strongest opinion of the necessity of making some provision from the public revenue of the Colonies, for the religious instruction of their inhabitants, and that this vital object cannot safely be left altogether to the spontaneous efforts of individuals, by adopting what is called the voluntary system. But all important, as I consider it to be, that the Colonists should provide, from their public revenue a part at least of the expense of maintaining adequate religious establishments for the population, it is no less clearly demonstrated by experience, that to impose this obligation upon an unwilling people by the authority of Parliament, in addition to other objections, is open to this conclusive one, that, instead of being advantageous, it is really injurious to the cause of religion, by indisposing men to receive the instruction which they are compelled to pay for unwillingly, and, as they think, in violation of the principles of a representative Constitution. The Bill, as we proposed it, went, I think, as far as was for this reason expedient, in maintaining grants for religious purposes in these Colonies. It provided that the existing grants should continue, until altered by some new law passed by the local Legislature, and re-

quired that Acts for making such alterations should not be at once assented to by the Governor, but should be reserved for the special signification of Her Majesty's pleasure. The object of this provision, was to take away all just ground of complaint from the Colonists, on the score of their being deprived of the constitutional power of controlling the expenditure of the whole revenue levied from them by taxes, but at the same time to oppose some check to hasty legislation on this subject, and to confer upon the Crown the power of guarding the vested interests of individuals from being unjustly dealt with.

The enactment we proposed on this point received the sanction of Parliament, and is now the law; and I would fain hope that the Colonies will not exercise unwisely the power with which they have been invested, though I grieve to observe, that in South Australia there seems to exist at present a strong disposition to adopt, in its most absolute form, what is called the voluntary system, and to put an end to all grants whatever for religious purposes. Perhaps however, strong as the disposition is, the inhabitants may upon further reflection be led to take a different view of the subject. Independently of all higher grounds of objection to the course they contemplate, it is one which, looked at merely as a pecuniary question, can hardly fail to be injurious to them, as nothing assuredly would so much tend to induce the best class of settlers to avoid South Australia, and to give a preference to other Colonies, as finding that in the

former they would not enjoy, for themselves and their children those facilities for public worship, to which the people of this Country attach so high and so just a value. In the meantime it is satisfactory to know, that the effect of abstaining from any attempt to force the Colonists to pay for the maintenance of a religious Establishment, has not been unfavourable to the real influence and prosperity of our own Church; its usefulness has been not a little extended by the appointment of three additional Bishops in Australia, for whom endowments were provided by the exertions and generosity of members of the Church, during your Administration. The zealous and able clergymen who have accepted these arduous offices have already done much, (and still greater success will, I trust, attend their labours as they continue,) in increasing the number of clergymen and promoting the building of churches and schools.

A strong desire was expressed by some members of both Houses of Parliament, that clauses should be added to the Australian Constitutional Act, for the purpose of assisting and encouraging the voluntary exertions of the Church of England in these Colonies, by relieving its members from difficulties under which they are supposed to labour. The authors of these proposals did not succeed in showing, that any legislation was required for the benefit of the Church of England in this part of the Empire, which could be undertaken by Parliament, without trenching on the proper province of the local Legislatures, and the

clauses which had been suggested were not adopted. It is, I think, well for the interests of the Church of England in the Colonies, that such was the result of the discussion, and that the Act passed, without containing clauses which could have been attended with no advantage that would not have been dearly purchased, by wounding the sensitive jealousy felt by the Colonists, of any interference by the Imperial Legislature in their local concerns.

The importance of this subject has led me rather further than I had intended, in adverting to one provision of the Bill we submitted to Parliament for the better government of the Australian Colonies. I have only to add, with respect to this measure, that during its progress through Parliament it was strongly urged that it ought to be amended, so as to deprive the Crown of its ancient power of disallowing Colonial laws, at least so far as relates to a certain class of acts. I have already noticed this question in my first Letter, and some additional arguments against the proposed important change in our Colonial system will be found in a despatch I am about to quote. We thought it, for the reasons there stated, our duty to resist the proposed alteration of the Bill, and no amendment of the kind was made; but the manner in which it was urged during the debates, and the general tone of these discussions, had an unfortunate effect on the success of the measure, when passed, in New South Wales.

When the Report of the Board of Trade, on which

the Bill was founded, reached the Colonies, it was received with an expression of entire satisfaction; the approbation of all its essential recommendations was indeed so general that it might almost be said to have been unanimous; and I have now before me a collection of extracts, made from the Colonial newspapers at the time, from which it appears that these newspapers, various as are the general political views of their writers, concurred in approving highly of the measure which was proposed, except as to a few of its minor details, on which there was some difference of opinion. When the Bill founded on the Report, which was introduced but not proceeded with in the Session of 1849, was received in the Colonies, it met with the same favour, and much disappointment was occasioned by the subsequent intelligence that it had been necessary to postpone it.

But in New South Wales (for in the other Colonies it was different*), the debates in Parliament altered the feeling of many of the inhabitants, whose fault it is to be somewhat easily led away by unsound but plausible arguments when their vanity is appealed to. They were induced to suppose, that the privileges

* In Victoria the general feeling seems to have been the very opposite to that which prevailed in Sydney. See the Address of the inhabitants of Geelong, in which they express their gratitude, not only for the Act of Parliament which had been passed, but also for the instructions, which had been sent to the Governor, as to the mode of carrying it into operation. Further Papers, relative to the alterations in the Constitution of the Australian Colonies, presented to Parliament, July 1, 1852, p. 3.

granted to them by Parliament were less than those enjoyed by other Colonies, and to believe in the reality and importance of the faults which theoretical observers in this country had detected in the Constitution under which they had lived for several years, although in that time they had apparently been unconscious of the existence of many of the alleged defects in the form of their government, which had not been manifested by their practical effects. Accordingly, though only two years before they had almost unanimously petitioned Parliament not to make any change in their Constitution without their previous assent, when the Act of 1850 reached the Colony, preceded by the reports of the debates in Parliament, it immediately became the object of indiscriminate censure. The Legislative Council—echoing, as I believe, not the real opinion of the majority or most intelligent part of the population, but rather that of the most noisy and easily excited—voted what they called a "Declaration and Remonstrance against the New Constitution Act, 13 & 14 Vict., chap. 59." This document, and the despatch in reply to it, will be found at length in the Appendix*; they ought to be carefully read, and compared with the Report of the Board of Trade, on which the Australian Constitutional Act was founded, by all who would form a correct judgement on the merits of that measure. Those who will take this trouble can hardly fail to be convinced that the Legislative Council, in their Declaration and Remon-

* See Appendix (A) to this Volume.

strance, have fallen into errors, both of reasoning and of fact, so obvious that it is difficult to account for them otherwise, than by supposing this State Paper to have been drawn up and voted rather under the influence of excited feelings than with the care and deliberation which would have befitted its importance. If the people of New South Wales wish really to benefit by the powers of self-government which their Constitution confers upon them, they must make their Representatives feel the necessity of evincing greater calmness of judgement, and regard for the dictates of sober reason, in the exercise of the high functions intrusted to them.

The inhabitants of New South Wales may be assured that the success of free institutions in any country depends far less upon the particular form of those institutions, than upon the character of the people upon whom they are conferred, and the use they make of the power placed in their hands. Nor are there any qualities more necessary to a people who possess such a Constitution, than the judgement and good sense which will prevent them from following blindly those who seek to obtain popularity by declaiming on alleged grievances, and which will lead them strictly to examine, and to reject, when ill-founded, the claims of such pretenders to their favour.

I have but a few words to add on the subject of the Australian Colonies, among which I have thought it more convenient not to include New Zealand, to which I shall call your attention separately. You

will perceive that I have made little reference to the discovery of gold in New South Wales and Victoria. This discovery was only known in this Country a few months before we retired from Office, and in that time we were not called upon to take any measures upon the subject, beyond approving what had been done by the local Authorities, and pointing out to the Governor of New South Wales, that the revenue derived from gold ought to be employed in adding to the strength and efficiency of the police, and making the other arrangements required by the very novel state of things that had arisen. The changes produced by the extraordinary abundance in which gold has been found, bid fair to be so great as almost to defy conjecture as to their ultimate result; hence I have thought it advisable to speak only of what had been done prior to this discovery, and of the state of things which existed on the eve of its taking place, which affords the best means of judging of the results of our policy. That state of things, I am happy to say, was in the highest degree satisfactory. In my Letter upon Transportation, I have had occasion to show the very remarkable improvement that has taken place in the condition and prospects of the two Colonies to which convicts are still sent; and, in my account of our measures with respect to Emigration, I have stated to how large an extent we had been able to add to the population of New South Wales, Victoria, and South Australia, by means of the territorial revenue. In all other re-

spects these Colonies were equally prosperous, and the annual reports up to the end of 1850 (the last year in which their condition had not been affected by the discovery of gold) show an extraordinary progress to have been made by them.

I find that the receipts from the sale of Crown lands in New South Wales (including Victoria), which, after the extravagant sales of a few years before, had been reduced in 1844 to £7402, and had only recovered to £27,060 in 1846, had risen in 1850 to no less than £156,698, while the revenue derived from licenses and leases to occupy Crown lands was at the rate of about £51,000 a-year; and the general revenue, which in the year 1846 had been £270,550, was in 1850 £371,394. The most important branch of industry in the Colony, the production of wool, had also increased very rapidly. The number of sheep in the Colony in 1846 was 7,906,811, and in 1850 it amounted to 13,059,324. The wool exported in 1846 was 16,479,520 lbs., worth £1,019,985; in 1850 the export of wool had risen to 32,361,829 lbs., worth £1,614,241. The progress of South Australia has been even more rapid. The Customs revenue of that Colony, which in 1846 was £37,643, had increased in 1850 to £102,523. The extent of land in cultivation had increased from 33,292 acres in 1846, to 174,184 in 1850. The number of sheep assessed in 1846 was 681,374; the number depastured on the Crown lands, (within and without the part of the Colony divided into hundreds,) amounted in 1850

to 1,152,039. The export of wool in 1846 was 1,473,186 lbs., in 1850 it was 3,289,232 lbs. The total value of the exports of all descriptions was in 1846 £190,669, and in 1850 it had risen to £571,348*.

I might have quoted other Returns, but those I have selected are sufficient to show with what extraordinary rapidity these Colonies were advancing in wealth and importance even before the discovery of gold had occurred. Their prosperous condition, and the progress they have made, justified the measure which I have mentioned in my first Letter, that we had taken, in calling upon them to contribute more than heretofore to the expense of their military defence; and it also affords us, I think, conclusive evidence that the art of colonization has not been, as it has been said, lost in modern times.

November 1, 1852.

* See the Annual Blue Book Reports presented to Parliament.

LETTER X.

NEW ZEALAND.

My dear Lord John,

I have hitherto had to speak of Colonies which, during the whole period of your Administration, have been in the enjoyment of uninterrupted peace. I have now to call your attention to those which have been disturbed by war or insurrection. The British Colonies which during the last six years have suffered from events of this kind are New Zealand, Ceylon, and the Cape of Good Hope. I do not add the Ionian Islands, because, though Cephalonia has also been the scene of insurrection, these islands are not a British Colony, but a distinct State, under British protection; and though their government is presided over by a British Commissioner, who acts under the directions of the Secretary of State for the Colonial Department, their system of administration is in many respects different from that of a Colony. Hence, as I find the task I have undertaken, in proposing to give an account of the transactions of the

Colonies properly so called, is more than enough for me, I will take advantage of the circumstance of the Ionian Islands not forming part of the British dominions, to abstain from entering into their affairs. I do this the more gladly, because the most important subject connected with their administration which we were called upon to deal with, had not been disposed of when we retired from Office, but was still pending.

With respect to New Zealand, you cannot fail to recollect that the accounts received from that Colony were so unsatisfactory and alarming during the years 1844 and 1845, that, after having been the subject of a Parliamentary inquiry and of much discussion, Lord Derby, who was then Secretary of State for the Colonies, thought it necessary, in June 1845, to recall the former Governor, and to direct Captain (now Sir George) Grey, then Governor of South Australia, to proceed with the least possible delay to New Zealand, and take upon himself the administration of its affairs. When the new Governor reached the Colony, in November 1845, he found the British troops and settlers engaged in hostilities, (of which they had had greatly the worst,) with the Natives in the northern part of the islands. Sir George Grey's first object on his arrival in New Zealand, was to avail himself of the naval and military force at his disposal, to put down the dangerous rebellion in the district of the Bay of Islands, and his account of the complete success which attended the measures he took

for this purpose, had reached the Colonial Office three or four months before we were appointed to Office. The war was not renewed in that district, though it long continued to give cause for much anxiety; but in the southern province a few months later there were serious disturbances, which broke out at intervals, and did not finally cease until August, 1847.

It is unnecessary that I should give any detailed account of these disturbances; it is sufficient to state that, during the whole of 1846 and the greater part of 1847, though the Governor was making steady progress towards establishing permanent tranquillity, and succeeded in maintaining friendly relations with the great majority of the natives, some of the principal Chiefs continued to show a spirit of disaffection and insubordination, which on two or three different occasions broke out into open and very serious hostilities. By the energy and judgement of the Governor, admirably supported as he was both by the troops and by the naval force on the station, any general insurrection was averted, and all the military operations it was necessary to undertake were brought to an early and successful close. Among the most remarkable events of this period were the seizure of the famous Chief, Te Rauparaha, in July, 1846, and the rebellion at Wanganui, in April, 1847. Te Rauparaha, who was one of the most noted warriors in New Zealand, and had been a chief actor in the massacre of Captain Wakefield and his companions in 1843, was detected by the Governor in concerting

with his old ally, Rangihaeata, hostile proceedings against the British Settlers in the neighbourhood of Wellington, while professing friendship to them. When this was clearly ascertained, the treacherous Chief was seized without resistance, by a prompt and well-executed surprise, and he was detained a prisoner on board one of the ships-of-war until all danger from him was at an end, when, on the intercession of two of the friendly Chiefs, he was released. There is every reason to believe, that this measure prevented a very formidable outbreak from taking place.

At Wanganui, in April, 1847, the murder of the wife and children of a Settler led to another insurrection. The murderers were promptly taken, and delivered into the hands of the British Authorities, by our native allies; when some of the most powerful Chiefs in the district, who were nearly related to the culprits, assembled a war-party of no less than 600 men for their rescue. The British force at Wanganui consisted of only 170 men, notwithstanding which, Captain Laye, the officer in command, did not hesitate to try the murderers by court-martial, and, on their conviction, to have four of them hanged with as little delay as possible. The Governor reported, that this firmness and decision on the part of Captain Laye probably saved the country from a serious rebellion*. The execution of the culprits was followed, as was to be expected, by an attack on the Settlement, which however Captain

* See Papers presented to Parliament, December 1847, p. 71.

Laye, with the small force at his command, gallantly repulsed, and with the assistance of the Settlers he defended the place successfully until the Governor arrived with reinforcements. There were afterwards two or three severe skirmishes, and it was not until the 3rd of September, 1847, that the Governor was able to report that the disturbances at this place were at an end, and not likely to be renewed*. Since that time tranquillity has been maintained throughout the Colony, and it has continued to advance steadily and rapidly in prosperity. The policy by which this result has been obtained, and the difficulties the Governor has had to contend with, are so well described by himself, that I may be permitted to quote nearly the whole of the very interesting Despatch in which he has done so. In this Despatch, dated July 9, 1849†, he states that the two Colonies, into which New Zealand was then divided,

"are composed at present of what may be termed nine principal European settlements, besides smaller dependencies of these. The largest of the settlements contains about seven thousand (7000) European inhabitants; and their total European population may be stated at about twenty thousand (20,000) souls. These settlements are scattered over a distance of about eight hundred (800) miles of latitude; they are separated from each other by wide intervals; and communication, even for persons on horseback, exists only between three of them. Their inhabitants are chiefly

* See Papers presented to Parliament, February 1848, p. 12.

† See Papers presented January 1850, p. 190.

British subjects, but there are amongst them many Americans, French, and Germans. The majority of them have never been trained to the use of arms. The settlers, both in the main Colonies and the subordinate dependencies, have occupied the country in so scattered and irregular a manner, that it would be found impossible to afford them efficient protection. They are generally without arms, and would probably be deprived of them by the aboriginal population if they possessed them at any remote stations.

"The wide intervals between these European Colonies are occupied by a native race, estimated to consist of one hundred and twenty thousand (120,000) souls, a very large proportion of whom are males, capable of bearing arms. These natives are generally armed with rifles or double-barrelled guns; they are skilled in the use of their weapons, and take great care of them; they are addicted to war; have repeatedly, in encounters with our troops, been reported by our own officers to be equal to any European troops; and are such good tacticians that we have never yet succeeded in bringing them to a decisive encounter, they having always availed themselves of the advantage afforded by their wilds and fastnesses. Their armed bodies move without any baggage, and are attended by the women, who carry potatoes on their backs for the warriors, or subsist them by digging fern-root, so that they are wholly independent of supplies, and can move and subsist their forces in countries where our troops cannot live.

"I should correct here a popular fallacy, which, if ever acted upon, might prove ruinous to these settlements. It has been customary to compare them to the early American Colonies, and the natives of this country to the North American Indians. There appears to be no analogy between the irregular manner in which these islands were partially

peopled by whalers and persons from all portions of the globe, and the Pilgrim Fathers who founded the early settlements in America. And I have been assured by many excellent and experienced officers, well acquainted with America and this country, that there is, in a military point of view, no analogy at all between the natives of the two countries; the Maories, both in weapons and knowledge of the art of war, a skill in planning and perseverance in carrying out the operations of a lengthened campaign, being infinitely superior to the American Indians. In fact, there can be no doubt that they are, for warfare in this country, even better equipped than our own troops.

"These natives, from the positions which they occupy between all the settlements, can choose their own point of attack, and might even so mislead the most wary Government, as to their intended operations as to render it extremely difficult to tell at what point they intended to strike a blow. They can move their forces with rapidity and secresy from one point of the country to another; whilst, from the total absence of roads, the impassable nature of the country, and the utter want of supplies, it is impossible to move a European force more than a few miles into the interior from any settlement.

"The natives moreover present no point at which they can be attacked, or against which operations can be carried on. Finding now that we can readily destroy their pas or fortifications, they no longer construct them, but live in scattered villages, round which they have their cultivations; and these they can abandon without difficulty or serious loss, being readily received and fed by any friendly tribe to whom they may repair. They thus present no vulnerable point. Amongst them are large numbers of lawless spirits, who are too ready, for the sake of excitement and the hope

of plunder, to follow any predatory chief. To assist in anything which might be regarded as a national war, there can be little doubt that almost every village would pour forth its chiefs and its population.

"With these characteristics of courage and warlike vagrancy, the Maories present however other remarkable traits of character. Nearly the whole nation has now been converted to Christianity. They are fond of agriculture, take great pleasure in cattle and horses; like the sea, and form good sailors; are attached to Europeans, admire their customs and manners; are extremely ambitious of rising in civilization, and of becoming skilled in European arts; they are apt at learning, in many respects extremely conscientious and observant of their word, are ambitious of honours, and are probably the most covetous race in the world. They are also agreeable in manners, and attachments of a lasting character readily and frequently spring up between them and Europeans.

"A consideration of these circumstances will, I think, lead to the conclusion that any attempt to form, in those portions of these islands which are densely peopled by the natives, an ordinary European settlement, the inhabitants of which produced all they required, and were wholly independent of the native race, must end in failure. The natives in the vicinity of such a settlement, finding themselves excluded from all community of prosperity with its inhabitants, would soon form lawless bands of borderers, who, if they did not speedily sweep away the settlement, would yet by their constant incursions so harass and impoverish its inhabitants, that they would certainly soon withdraw to the neighbouring Australian settlements, where they could lead a life of peace and freedom from such incursions. Upon the other hand, however, it would appear that a race

such as has been described could be easily incorporated into any British settlement with mutual advantage to both races; the natives supplying agricultural produce, poultry, pigs, and a constant supply of labour (although yet rude and unskilled), whilst, upon the other hand, the Europeans would supply the various manufactured goods required by the natives, and provide for the manifold wants created by their increasing civilization. Such a class of settlements might easily grow into prosperous communities, into which the natives, with characters softened by Christianity, civilization, and a taste for previously unknown luxuries, would readily be absorbed.

"The questions to be solved have therefore been, how to induce the native race cordially to assist in the attempt to create so desirable a state of things, and how to provide the funds requisite for governing so many isolated settlements, spread over so vast a tract of difficult country, the intervals between which are occupied by so warlike a race, over whom it was necessary to exercise some control? It is worthy of remark here, that the united population of New Zealand is as large as that of New South Wales has until very recently been, and that it is a population, from its mixed and peculiar elements, infinitely more difficult to govern than that of New South Wales, whilst the cost of the machine of government is greatly increased from the number of the settlements and their distance from each other. In point of fact, the several settlements are distinct colonies, and, both in the difference of feelings and interests of the Europeans and of the respective native tribes, inhabiting each, differ much more widely from each other than many British Colonies do. It appears, therefore, that it would be imprudent and unjust to attempt to draw any parallel in these respects between New Zealand and any other British Colonial Possession.

"In carrying out any plan, having for its object the amalgamation of the two races, the following difficulties have, until recently, presented themselves:—

"1stly. Hostile encounters had taken place between the settlers and the natives in the south of New Zealand, and between Her Majesty's forces and the natives in the northern portion of the country, in all of which the number of killed and wounded on our side had been comparatively so large, and the loss of the enemy so small, that they had been led to form an exaggerated notion of their own prowess and strength; and a desire of emulating the example of those chiefs who were imagined by their countrymen to have gained great successes, had excited a spirit of exultation and dissatisfaction throughout the greater portion of the islands; so that whilst a rebellion was actually raging in one portion of the islands, it was too probable that the natives would speedily break out into similar excesses in other portions of them.

"2ndly. Disputes existed between the settlers and the natives in various places regarding their respective rights to certain lands. These disputes, relating to the personal interests of the parties concerned, created between them feeling of hostility and bitterness which was gradually raising race against race, and which threatened ultimately to become a feeling which could only be put a stop to by the extermination of one party or the other.

"3rdly. As a necessary result of the difficulties existing under the two previous heads, the revenue had almost disappeared, and by the issue of paper money a large debt had been contracted; there was thus an absence of the funds requisite for the re-establishment of order and good government, whilst the settlers had also, to a great extent, lost all confidence in their future prospects, and were in a disheartened and desponding condition.

"4thly. A very great difficulty had been created by the Crown's right of pre-emption having been waived in favour of certain individuals over large tracts of land, and by the inordinate demands of other persons to extensive tracts of country having been entertained by the Government, the result of which was, that a party of land-claimants had been called into existence, who made demands so extravagant and illegal that no Government could accede to them; nor did it appear practicable to make a settlement of these claims, even upon the most liberal basis, without incurring for the Government such a degree of hostility from a large number of persons as would probably exceedingly embarrass and impede any subsequent Administrations.

"In determining the line of policy the Government should pursue, in reference to the first class of the difficulties above named, that is, in reference to the war which existed in New Zealand, and the rebellion which appeared likely to to break out, the following considerations seemed naturally to present themselves:—

"It appeared to be clearly the duty of the Government, in a firm and decided manner, to crush the existing rebellion, and to put down without delay any disturbances which might afterwards break out; but yet it also seemed clear that its ruling line of policy should be, not to embark in any operations in which an absolute certainty did not exist of speedy and complete success, and rather to delay engaging in hostilities which might appear necessary, than hurriedly to embark in any contest the result of which could not be foreseen.

"Indeed, delay in engaging in hostilities was, wherever practicable, obviously the first duty of the Government of this territory. No knowledge of the country, of such a nature as to enable an officer to move with certainty a body

of troops even to a few miles from any of our settlements, was possessed by the Government.

"The number of persons who possessed a competent knowledge of the native language was so few that it was impossible to secure the services of the requisite number of interpreters. The two races had so recently been brought into close contact, that their ignorance of their respective appearance, of their language, customs, and manners, filled them with mutual distrust, whilst their disputes, in relation to land, embittered their feelings of hostility. It appeared very probable that, as the two races became more accustomed to each other, as their knowledge of each other's language and customs increased, and as their private differences were adjusted, so would all necessity for war and conflict between them wear away; whilst, should these anticipations of a delay in military operations rendering a war unnecessary, prove correct, it would clearly have been an uncalled for measure of severity to hurry on a contest with the natives. And in the case of each individual who fell in such a conflict, it might have been said that, from his ignorance, a man had been destroyed, whom a few months' enlightenment would have rendered a good subject, a valuable consumer of British manufactured goods, and a contributor to the revenue. The loss to Great Britain by engaging in an unnecessary war would also have been great; every hundred soldiers that had fallen must have cost at least £10,000. Moreover Great Britain, in despatching two regiments to this country, had made great exertions, which it could not continue or repeat without considerable inconvenience to the public service. Yet even a very few false movements might have entailed so considerable a loss upon the small force in this country, as to have rendered large and continued reinforcements necessary. It is per-

haps not too much to say, that during a considerable period of time, any signal failure in an operation which had been entered upon, would have led to a simultaneous and almost general rising, the effects and cost of which may be easily conceived.

"It was also certain that, even if the anticipations which had been formed, of the benefits which might spring to both races from delaying military operations, had not been realized, and it had proved ultimately necessary to embark in a war, yet that each month's delay, by increasing our knowledge of the country and of the native language, and by enabling us to complete our roads and to consolidate our establishments, would be of the greatest advantage to Great Britain, by enabling it to enter on the contest with greater means and more certainty of success.

"Mercy, justice, and prudence, all appeared therefore to point to delay as the general rule on which the Government should act. This line of policy has therefore been in all instances unswervingly pursued, and the result has quite equalled the anticipation which might reasonably have been formed; for whilst the rebellion which existed and the disturbances which naturally sprang from that rebellion have been in all instances crushed, the total loss, of all ranks, sustained on our side through so long a period of time has amounted to only 28 killed and 53 wounded; and in as far as human judgement can form an estimate of such matters, no probability exists of any extensive rebellion ever hereafter breaking out in the country; and even should such disturbances again unhappily break out, our knowledge of the country is now so much more accurate, our alliances with the natives have become so much more numerous, our military roads have already been so far completed, the number of persons acquainted with the

native language and customs so increased, and the natives' supplies of arms and ammunition have been so much diminished, that we should enter on such a contest with infinitely greater advantages than we formerly possessed.

"The efforts which have been made by the Government of this country for the removal of the second class of difficulties alluded to were of two kinds:—

"1st. The resumption of the Crown's right of pre-emption, which had unfortunately been abandoned, and

"2nd. The adjustment of many of the almost innumerable land questions which existed. The task of resuming the Crown's right of pre-emption appeared to be one of great difficulty and danger, but the natural good sense of the natives, and their continually increasing confidence in the Government, have rendered its accomplishment much less difficult than was anticipated. The various steps which have been taken, for the adjustment of the disputes in reference to land, have been so fully detailed in the Despatches from the various authorities, and the large mass of documents which have been transmitted to the Home Government, that it may be unnecessary to say more than that, with very few and trifling exceptions, every land question in the southern province has been already disposed of, whilst in the northern province nearly all questions connected with lands have been also arranged, with the exception of those which, resting upon grants issued by the Crown, can only be dealt with by our Courts in the ordinary manner.

"The measures taken to remedy the difficulties detailed under the third head, namely the want of a revenue, the existence of a depreciated paper currency, and the failure which had taken place in the confidence and expectations of the settlers, have also all been fully detailed in the

Despatches which relate to those subjects. The objects contemplated by the Government, in reference to these subjects, may be generally stated to have been, the imposition of duties, which, by a system of indirect taxation, might raise from the native as well as from the European population a revenue which would increase with every successive step of their advancement, and yearly yield the means for their more efficient control and government, whilst, in aid of and in connection with these plans, the depreciated paper currency was partly withdrawn, and the remaining portion of it was converted into a funded debt.

"In order to remedy, inasfar as possible, the evils enumerated under the fourth head, namely the difficulties which had been created by the Crown's right of pre-emption having been waived in favour of certain individuals over large tracts of lands, and the claims of others having been entertained to enormous tracts of country, every effort has been made to adjust these claims upon the most liberal terms, and to carry out these arrangements in the most conciliatory manner; this being, however, one of those cases in which individuals have been led to form extravagant expectations which it was impossible for any Government to realize, no efforts could probably have prevented much disappointment and bitterness of feeling ensuing, and it is probable that nothing but time can completely eradicate this evil, although, from the settlement of so large a number of these claims, and from the arrival of so many disinterested persons in the Colony, the proportionate number of individuals, whose expectations have been disappointed, is gradually decreasing, and their influence as a party will soon cease to be felt.

"But little would, however, have been accomplished if

the Government had confined itself simply to an attempt to remove the various evils under which these islands were labouring. It was necessary that active measures should at the same time be taken, without delay, for the amalgamation of the two races; that the confidence of the natives should be won; that they should be inspired with a taste for the comfort and conveniences of civilized life; that they should be led to abandon their old habits; that the chiefs should be induced to renounce their right of declaring peace and war; and that the whole of the native race should be led to abandon their barbarous modes of deciding disputes and administering justice, and should be induced for the future to resort to our Courts for the adjustment of their differences and the punishment of their offenders.

"Thoroughly to accomplish a change of this nature would require a long series of years and a succession of generations.

"The utmost therefore that any Government could hope to do was, to establish institutions which might imperceptibly but certainly lead to so complete a change of manners in a barbarous nation as was contemplated; and to secure these institutions by such laws and by such a constitution, as appeared to afford a reasonable guarantee for their perpetuity; the first step to be taken to ensure these ends appeared to be, to convince the natives that our laws were better than their own, as affording more perfect security for life and property, and a much more ready means of adjusting differences which might arise either between natives and Europeans or amongst natives themselves.

"To attain these ends, the Resident Magistrate's Ordinance was passed, and Mixed Courts were constituted for the settlement of disputes betwixt natives. At the same time a considerable number of their young chiefs and most

promising young men were enrolled in an armed police force, and thus habituated to act as actual administrators in the lowest offices of the law, and were made acquainted with the practical administration of the law in our inferior Courts. This latter measure, at the time it was introduced, excited unbounded ridicule, yet probably no measure has been so totally successful in its results. The native armed police force has furnished gallant men, who have led our skirmishing parties, and who have fallen like good soldiers in the discharge of their duty; and it has furnished intelligent, sober, and steady constables, whose services, under various circumstances, have been found of great utility. The actual result of the two measures combined is sufficiently attested by the number and importance of the cases in which natives were concerned which have been recently decided by our tribunals, to which until lately the natives never resorted.

"To bring the natives under the influence of the Government, and to gain their confidence and attachment, various measures have been resorted to by the Government. Hospitals have been established in the principal districts, to which both races have been equally admitted, and in which they have been tended with equal care; savings-banks have been instituted for the benefit of both races; a considerable number of natives have been employed in the minor offices of the Government establishments; pensions have been conferred on those chiefs who, during the first rebellion, were most distinguished by their gallantry, fidelity, and devotion to the British cause. Large numbers of natives have been employed on public works and in the construction of roads, thereby securing to the Colony the advantage of excellent lines of communication, whilst, from the discipline maintained amongst those employed upon

public works, those works formed in fact industrial schools, in which the natives were trained to European habits of order and obedience, were accustomed to use European tools instead of their own rude implements, and were thus gradually trained to become useful labourers for the colonists. The natives have also been encouraged to pursue improved modes of husbandry, to construct mills, to acquire vessels, to attend to the breeding of cattle and horses, and a newspaper is fortnightly published by the Government, for the purpose of giving them useful information and plain practical directions on all those points to which the Government is anxious they should direct their attention.

"These various measures may be however said to aim only at the present improvement and advancement of the native race, and to make no adequate provision for their continual advancement in the arts of civilized life, and for the education of the native children upon such a system that they might have a prospect of standing on terms of equality with the European race, and of understanding and speaking their language.

"Fortunately the task of the Government in this respect has been an easy one. There existed in this country three Missions, established by different Christian Denominations, amongst whom there is perhaps an emulation as to which should achieve the greatest amount of good; and it may reasonably be doubted whether at any period of the world there has existed in one country, amongst so large a number of men who had devoted themselves to the holy calling of a missionary, so many persons who were eminently qualified by piety, ability, and zeal to discharge the functions of the office upon which they had entered: the result has been that these gentlemen, scattered throughout the country, have exercised an influence without which all

the measures adopted by the Government would have produced but little effect. Won by their teaching, the natives have almost as an entire race embraced Christianity, and have abandoned the most revolting of their heathen customs. Instructed by their missionaries, probably a greater proportion of the population than in any country in Europe are able to read and write; and encouraged by the precept and example of the same gentlemen, they have, in all parts of the islands, made considerable progress in the rougher branches of civilized life. The Government therefore, in establishing schools, thought it most desirable not to attempt to set up a system of its own, which might have required years for its development (during which a generation might have melted away, and an opportunity have been lost which could never be recalled), but rather to join its exertions to those of the missionaries, and to endeavour, whilst it established its own educational institutions, to render the system of the missionaries more complete and effective than hitherto. It therefore provided considerable funds which should be set apart for educational purposes, but determined that these funds should be applied under the direction of the heads of the different Denominations who had missions established in New Zealand; it being provided that the several institutions, which received any portion of these funds, should be conducted upon the industrial system; that the English language should be taught there, and that a sound religious education should be imparted to the pupils. Provision was also made for the appointment by the Government of inspectors, who will examine into the state of the schools, and will ascertain that the various requirements which are imposed by the laws relating to these institutions are strictly complied with.

"All these measures appeared calculated to secure a permanent and constantly increasing, instead of a scanty and superficial, civilization for the native population; and in order still further to increase the chances of success, two laws were passed, the first of which prohibited the natives from procuring arms or ammunition, and the second of which debarred them from the use of spirituous liquors. These regulations appeared stringent and likely to create discontent, but it was thought probable that, united with so many other measures of a character which were agreeable to the natives, and clearly calculated to promote their welfare, their strong natural good sense would lead them to see that these more distasteful restrictions had originated in the same care for their welfare, as had suggested the other portions of the system; and the result has justified the anticipations which were formed, as they have without complaint acquiesced in these regulations, and generally and cheerfully acknowledge their beneficial tendency.

"In the course of the past eighteen months the natives have, on several occasions, shown in the most striking manner their increasing confidence in our institutions, and their knowledge of the rights they have gained by their incorporation into the British Empire, by carefully considering the effect that proposed measures are likely to have upon their future welfare, and by evincing their gratitude or dissatisfaction by forwarding congratulatory addresses for benefits received, or by transmitting memorials against proposed measures to the Queen, on whose justice and desire to promote their welfare they evidently relied with the most implicit confidence.

"The most cursory consideration of the large number of objects which the Government proposed to itself, in carrying out the system of policy which has just been detailed,

must have shown that it relied upon receiving, at east for some years, considerable moneyed assistance from some extraneous source, until the improvement which might naturally be looked for, in the internal traffic and external commerce of the Colony, had so far improved the revenue that it would suffice to defray the necessary expenditure of the Government.

"Such assistance was, in point of fact, most generously supplied by the Imperial Parliament, and it hence became an important object for the local Government so to conduct the financial operations of the Colony, that it might, at the earliest possible period, dispense with the assistance which was afforded to it, and thus cease to be a burden upon the parent State, which had so liberally aided it during its early struggles. This end may be said to be so far attained, that in the ensuing year the resources of the country will suffice to defray the whole of its expenditure with the exception of £15,000, if the proposed financial operations are approved of which were detailed in the Despatch named in the margin*, whilst, as in each succeeding year, an increase of revenue may be looked for, and no corresponding increase in the expenditure will be requisite, the amount of assistance received from Great Britain can be still further rapidly diminished in each year subsequent to 1850.

"In order that every guarantee might be afforded that the state of prosperity to which these Colonies were attaining might have a character of permanency, it was still necessary that institutions should be devised, which would ultimately constitute a form of government which was likely to be adapted to the circumstances of this country, and to be

* Papers presented to Parliament, No. 52, April 20, 1849, page 134.

satisfactory to its mixed and peculiar population. It also appeared to be a matter of great importance, that continual advances should be made towards such institutions, so that their introduction might be gradual, and that they might, as it were, imperceptibly grow with the growth of the Colony.

"Such a form of institutions had already in their main outline been sketched by your Lordship, and these in their main features presented a constitution than which nothing better could be devised here, although alterations in the details appeared necessary to adapt them to this country and to the feelings of its inhabitants. These alterations were made, and the form of constitution which appeared best adapted to New Zealand was fully reported on in the Despatches named in the margin*, whilst several steps preparatory to their introduction have already been taken in this country; and in point of fact, with the exception that the assemblies, instead of being elective, are nominated by the Crown, the proposed system may be said already to be in full operation in New Zealand. The great error which the local Government is in this respect thought by one party in the Colony to have committed, is too great a delay in introducing the elective principle. It may perhaps upon the other hand be urged that, looking to the peculiar condition and population of this country, it is better to err on the side of prudence, and not to incur the risk of the fearful evils which would ensue from another rebellion, for the sake of acquiring one or two years earlier that which must certainly within so short a period be obtained."

* Papers presented to Parliament,—No. 106, Nov. 29, 1848, page 9; No. 4, Feb. 2, 1849, page 21; No. 23, March 15, 1849, page 56; No. 27, March 22, 1849, page 59.

Enclosure.

Return of Killed and Wounded in New Zealand from March 4 to July 2, 1845.

Date.	Name of Place.	Killed.	No.	Wounded.	No.
1846.					
March 4	Kororarika . .	Soldiers	4	Soldiers . .	1
		Seamen	6	Seamen . .	8
May 8.	Okaihan	Soldiers	13	Soldiers & Seamen	39
		Seamen	—		
July 1.	Ohaiowai . . .	Soldiers	32	Soldiers . .	60
		Seamen	2	Seamen . .	2
		Pioneers. . . .	—	Pioneers .	4
	Total to July 2, 1845		57	. . . . .	114

Return of Killed and Wounded from January 11, 1846, to July 20, 1847.

Date.	Name of Place.	Killed.	No.	Wounded.	No.
1846.					
Jan. 11	Ruapekpeka . . .	Soldiers . .	3	Soldiers . .	11
		Seamen . .	9	Seamen . .	17
		Pioneers. .	1	Pioneers .	2
May 11	Boulcott's Farm, Valley of the Hutt.	Soldiers . .	7	Soldiers . .	3
June 16	Valley of the Hutt	Soldiers . .	1	Soldiers . .	4
Sept. 10	Howkewi	Soldiers . .	2	Soldiers . .	6
		Seamen . .	1	Seamen . .	—
1847.					
May 10	Wanganui	Soldiers . .	1	Soldiers . .	—
July 19 and 20.	Ditto	Soldiers . .	3	Soldiers . .	10
	Total to July 20, 1847 . . .		28	. . . . .	53

Grand Total, from March 4, 1845, to July 20, 1847 :—
85 killed, 167 wounded."

A Report upon the condition of the Island, bearing a date more than two years subsequent to that* which

* October 10, 1851.

I have quoted, has since been laid before Parliament, and it shows that the prosperity of the Colony has continued to increase during that period, and to become more firmly established. The revenue from Customs, which is the principal source of the Colonial income, had in the northern province been abandoned altogether in the hope of conciliating the Natives, in the latter part of 1845. The present Governor re-imposed duties on imports almost immediately after his arrival, and in 1846 they yielded a revenue of £21,888, which in 1850 had increased to no less than £48,945. It is a remarkable fact, showing the soundness of the present prosperity of the Colony, that this revenue has continued to increase, notwithstanding the large diminution in the naval, military, and civil expenditure of this Country in New Zealand. In the year 1850 the value of the exports had also risen to £115,441, having been no more than £44,215 only two years before; from the diminution of British expenditure the imports, as was to be expected, showed a comparatively small increase. The European population (exclusive of the troops and their families) was 22,408 in 1850, having been 16,996 in 1848*. The Natives have shown increasing confidence in the Government and in British law; they are rapidly acquiring the habits of civilized life, and becoming possessed of property, including water-mills and coasting vessels, and are carrying on a large trade with the Settlers,

* See Papers presented to Parliament, May 3, 1852.

to their mutual advantage*. In short, the contrast between the state of things at the end of 1850, and that which the present Governor found existing on his arrival at the end of the year 1845, is so marked and so gratifying, that it is difficult to believe that so great a change should have been accomplished in the short space of five years. No general report of the state of the Colony, up to a later period than the end of 1850, has been laid before Parliament; but from the accounts in the newspapers it appears that, up to the date of the latest advices, nothing had occurred to check the progress of the Colony.

It is to the Governor, Sir George Grey†, that New Zealand is mainly indebted for this happy alteration in its condition and prospects. Nothing but the singular ability and judgement displayed by him during the whole of his administration, and especially in its commencement, could have averted a war between the European and Native inhabitants of those Islands. It would have been one of the same character with that which has been raging so long at the Cape of

* See Papers presented in August 1851, and especially Mr. Kemp's Statistical Returns, in the Appendix.

† As I have expressed so strongly the admiration I feel for Sir George Grey's services in New Zealand, I ought perhaps to say, that my opinion has not been influenced by any private feelings of partiality. Notwithstanding the name he bears, there is no relationship between Sir George Grey and myself, nor have I the advantage of any personal acquaintance with him. I never had the pleasure of seeing him, and know him only by his conduct and my correspondence with him in the public service.

Good Hope, but still more arduous, since the New Zealanders would have been yet more formidable enemies than the Kafirs, and the scene of the contest so much more remote. The war which had already begun when Sir George Grey reached New Zealand, and in which at that time all the advantage had been with our adversaries, would have been converted into a mortal struggle between the European and Maori races by the slightest error of judgement on his part, and by his failing to unite with the most cautious prudence, equal firmness and decision. Such a struggle, once commenced, could hardly have been closed except by our abandonment of the Islands in disgrace, or the extermination of their aboriginal inhabitants.

The best proof of the wisdom of Sir George Grey's policy towards the Natives is afforded by the almost unbounded influence he has established over their minds, notwithstanding the severity he has been compelled to exercise upon some occasions. He has never attempted to conciliate their favour at the expense of justice to the Settlers, or by showing indulgence to lawless proceedings; on the contrary, he has maintained his authority over them with an exceedingly high hand, and has strictly enforced various regulations calculated to be very unpalatable to them, especially his prohibition of any trade with them in arms and gunpowder. Yet he has succeeded in impressing them with a conviction that he is their best and truest friend, and commanded thus their willing obedience to all his measures. There are, in the

voluminous papers which have been laid before Parliament, many remarkable proofs of the degree to which he has secured their affection and confidence. I will mention but two. When the Government House at Auckland had been destroyed by fire, a body of Natives came forward with an entirely spontaneous offer of their unpaid labour to rebuild it; and afterwards, when a report that he was to be recalled had been circulated by some of the White opponents of his Government, petitions to the Queen that he might be allowed to remain were signed by the Natives; and it is a curious circumstance that the first signature to one of these petitions was that of the Chief Te Rauparaha, whom he had kept so long in confinement. Some of the letters written by Chiefs to the Queen, expressing their earnest desire that he might not be removed, and the gratitude and affection they felt for him, are very interesting*.

* See Papers presented to Parliament in July, 1849, p. 27; Papers of January, 1850, p. 66; of August, 1850, pp. 106, 109; of August, 1851, pp. 44, 49, 134–141, 142. I add two of the letters referred to.

Copies of two letters from bodies of New Zealanders to the Governor Sir George Grey, after the burning of the Government House on the 22rd of June, 1848.

Auckland, June the 24th, 1848.

FRIEND THE GOVERNOR,

Salutations to you. Great is our love and sympathy to yourself and Mrs. Grey because your dwelling has been destroyed by fire. Had we been awake at the commencement of the fire we should have come to your aid, but we reached the place when the

Giving then to the Governor the chief credit for having brought New Zealand in safety through the perilous crisis of the last seven years, the merit which we are entitled to claim, is what belongs to us for having supported him in the policy he has pursued, and co-operated with him to the utmost of our power. His previous administration of South Australia, under difficulties of another kind, but hardly less formidable than those he had to encounter in

fire was in full vigour. Our object was to save your property. There are forty of us working at the Barracks, and this is the love of us people at the Barracks for you, because you are the directing, upholding, controlling, etc., parent of all the people. Do you hearken! With yourself is the thought relative to our building a new house of stone for you, as we have been instructed in this good work, and we know how to perform it, as we have learnt the art of building. If you consent to this, will you write to us, and we will talk with the Chiefs about it.

From your loving children. Written by Te Taranu for the Workmen of the Barracks. Concluded to our Father the Governor.

(True translation, C. V. DAVIES.)

Second Letter.

Wakoia, June 24, 1848.

FRIEND THE GOVERNOR,

Salutations to you. Great is our love to you. We have heard of your distress (or loss) by fire. Friend, this is the love of the people of the quarry to you. Friend, we are here pleased with you. We are willing or anxious that the stones of the Quarry should be taken by you, so that a stone house may be built for you. It will not take many weeks to build it; perhaps one, perhaps two. This is our thought relative to the stones for you; but there must be no payment given us. This is a token of affection from the people of the Quarry to our Governor.

(True translation, C. V. DAVIES.)

New Zealand, and the justness of all his views with regard to the latter as explained in his despatches, entitled him to our unreserved confidence. This being the case, I am persuaded that we adopted the only course likely to lead to a happy result, in resolving to embarrass him by few positive and no minute instructions, but to leave it almost entirely to his own judgement to determine upon the measures to be taken by him, and to be guided mainly by his advice in what we were ourselves called upon to do.

This was the principle upon which we acted; and accordingly, when, a few weeks after we came into Office, we received despatches in which he expressed his opinion that, for four or five years, a larger force than he had previously applied for was required, we lost no time in taking measures to meet his demand, though there was much inconvenience in providing the 2500 men he had asked for, in addition to a naval force, for this distant Colony. 900 men, in addition to the 1100 already in New Zealand, were immediately ordered to join him from New South Wales; and 500 discharged soldiers from the army were raised and formed into a corps, called the New Zealand Fencibles, to make up the amount required*. As this last was rather a novel measure, and has proved eminently successful, it is proper that I should give some account both of the reasons by which we were

* See Despatch to Sir G. Grey, of November 24, 1846, in the Papers presented to Parliament by Command, January 1847, p. 81.

governed in adopting it, and of the manner in which it was carried into execution.

What Sir George Grey required, was rather to be enabled to command at a short notice an overwhelming force, to put down any resistance which might be attempted to the authority of the Government, than the constant service of a large body of troops. Hence it appeared desirable that a part of the force sent to the Colony should consist of men well trained as soldiers, but who, instead of being kept constantly under arms and in the receipt of military pay, should be established in the Colony as settlers, in such a manner that their military services when wanted might be commanded on the shortest notice, and yet that they might be enabled to maintain themselves principally by their own labour. By such an arrangement it was anticipated that the Colony would gain the double advantage, of protection in the event of war, and in peace of a supply of labour and a permanent increase of its White population.

Such were the objects with which it was proposed that the New Zealand Fencibles should be raised. The Pensioners of the army, who, under the authority of Lord Hardinge's Act, had been organized for service in this Country under the direction of Colonel Tulloch, together with soldiers who had been discharged before they had acquired a right to pension, would, it was ascertained, afford ample means of raising a corps of the required strength, without admitting into it any but men of good character and

still vigorous constitution. In insisting upon the last condition, it was not of course expected that the men composing this force, however carefully selected, should be from their time of life as capable of enduring the toils of active warfare as the soldiers of a regular regiment. But as there would always be many posts which must be garrisoned for the protection of the capital and of the depôts, (where all the supplies of the troops in the field require to be left in safety,) it was considered that a certain proportion of the force in the Colony might be of this description; without at all diminishing the number of regular troops which, on an emergency, could be employed in active operations. Nor was it overlooked that, though the experiment had been more than once tried, discharged soldiers had not hitherto proved good settlers; but there was nothing in these former failures to justify unfavourable anticipations as to the result of the present attempt. They were easily to be accounted for by the fact, that men accustomed during the greater part of their lives to be constantly under the care of their officers, and to be left very little dependent on their own forethought and prudence, had been sent to the Colonies under no superintendence whatever, and left to shift for themselves in circumstances altogether novel to them, and under difficulties with which they were little fitted to contend.

We trusted that, by avoiding this error, a different result might be obtained; and it was determined that the men embodied for service in New Zealand, al-

though they were not to be constantly receiving pay, and employed in military duty, should be under the continual care and superintendence of officers in permanent pay. Six Companies of about 500 men were to be raised, and established in two or three villages, to be prepared for their reception, probably in the neighbourhood of Auckland. The men were to be accompanied by their wives and families, and each was to have a cottage prepared for him, with one acre of land, one quarter of which was to be cleared. A larger quantity was to be reserved, which they were to have the right of purchasing at a moderate price if able to do so; but it was not intended that they should look to the cultivation of this land as their principal means of support, at least in the first instance. Their land was expected to be used as a garden, to assist them in maintaining their families, and employment as labourers was meant to be their chief dependence.

Such employment there was no difficulty in assuring them that they should have, since, in addition to the private demand for labour, there would be that of the Colonial Government in the construction of roads, which were urgently wanted both for civil and military purposes. Much importance was attached to keeping the men together in villages, not only to render their services promptly available when wanted, and with a view to defence, but also to make it easier to provide religious instruction and education, for the men and for their children. A school-house, which was

also to serve as a chapel, was to be erected in each village. At the end of seven years' service their cottages and land were to become the property of the men; in the meantime they were to have the use of them rent free, in consideration of their attending regularly for military exercise twelve days in each year, and mustering under arms on Sundays for Church parade. They were to receive pay, if called out for service, like the Pensioners in this Country.

These views, and the conditions on which the men were to be raised, were fully explained to the Governor*, and they were sent to the Colony as soon as the necessary arrangements could be completed. The measure has entirely answered our expectations. The establishment of these men in the neighbourhood of Auckland has been successfully accomplished; they are doing so well, that a considerable number of them have already been able to buy a part of the land reserved for them, and others have purchased their discharge from the corps, by defraying the expense of bringing other Pensioners from England to take their place. Their presence has given quite the same feeling of security as that of an equal number of regular troops, while it has been clearly shown by the Governor that a very great saving to this Country has been effected by the substitution of a force of this description for an ordinary regiment of the same strength†.

* See page 19 of the Papers quoted above.

† See the Governor's Despatch of February 8, 1851. Papers of August, 1851, p. 144.

Though the original cost of settling these men on their land, and building their cottages, was much heavier than was found to be necessary when two more Companies were sent out at a later period, with the advantage of the experience that had been gained by the first attempt; this charge has already been much more than covered, by the saving in the pay to which regular troops would have been entitled. The advantage which the Colony has obtained from this increase of its population may be best judged of by the fact, that the Crown land in the hundreds in which these military settlements are situated, is now estimated to be worth upwards of £67,000, though at the time the settlements were commenced its value was not above £5000 or £6000, judging in both cases of the value from the prices which have been obtained for land sold at the time. No doubt a part of the increased value of this land is owing to the generally improved condition of the Colony, but it has been principally occasioned by the formation of these settlements. At a later period the Governor permitted eighty-one families of Natives to occupy some land adjoining the military villages rent-free, on condition of the men serving, armed at their own expense, under the command of the Officer of the Fencibles, whenever the latter may be called out for drill or military service. This arrangement, the Governor states, is intended, in the event of renewed disturbances, "to secure for each division of Pensioners the co-operation and assistance of a body of Natives ac-

customed to be drilled with them and attached to them from inhabiting the same locality and serving under the same officers, whose activity and knowledge of the country will in some degree compensate for the age and unfitness of the pensioners for rapid movements. In fact, the two combined ought to compose a force of a very useful description."*

I must further observe as to this measure, that I regarded it as one of very great importance, not merely on account of its immediate results, but as an experiment on the practicability of combining the two objects, of providing for the military defence of the Colonies at a cheap rate, and increasing their British population and their supply of labour, by forming settlements of men under certain obligations of military service, but not retained constantly in pay or in the performance of military duty. If the experiment succeeded in New Zealand, I looked forward to the same principle being applied elsewhere, as it already has been to a certain extent in Canada, Van Diemen's Land, and Western Australia, but not yet by any means on the scale on which it is capable of being acted upon. It is not necessary that the men sent out as military settlers should be Pensioners; they might be soldiers of comparatively short service, still in the vigour of their age, and equal to any military duty they might be called upon to perform; nay, men

* See Sir George Grey's Despatch of the 22nd of June, 1849, p. 169 of New Zealand Papers, presented to both Houses of Parliament, in January 1850.

might be raised for the purpose, and after being thoroughly disciplined in this Country, might be settled in the Colonies on the same terms as the New Zealand Fencibles.

In the Australian Colonies, where an increase of the means of military protection is desired by the inhabitants, a portion of their large emigration funds might be spent in carrying out and establishing on land Settlers of this description, instead of ordinary emigrants, with the further advantage of being thus enabled to place bodies of labourers where they are most wanted, which, in the event of the construction of railways being undertaken, might be of no small use. In all our Colonies possessing temperate climates this plan might, with modifications according to their several circumstances, be acted upon; and even in some of the tropical Colonies there are situations in the mountains perfectly adapted to European constitutions, and where the establishment of a British population would both morally and politically be of inestimable advantage. Not to mention other Colonies, in Ceylon, Mauritius, and Jamaica there are undoubtedly to be found situations in the high grounds, where there is no reason to doubt that British military settlers, with their families, might expect to enjoy as good health, and to be as capable of labour, as at home.

But I am sensible that this subject, in which I have long taken great interest, has led me too far from that which is my immediate concern. To return

to New Zealand, I have shown that we gave to the Governor all the support he asked in the way of increased military force. We did so in the full confidence that he would not apply for more than was really required, and because we concurred with him in believing that, if a sufficient force were sent in the first instance, in four or five years' time, by the measures he contemplated, it would become safe to reduce it; but that it was to be feared, "if a sufficient force were not at once stationed in the country," to use his own words, "sanguinary and expensive yet petty wars may take place, which will entail on Great Britain a large and useless expenditure of blood and money, and retard the advancement of this country almost indefinitely; whilst, on the other hand, should a sufficient force be at once sent here, I feel satisfied that no further disturbance of any consequence will take place, and that in a few years the country will be able to defray the expense of its establishments*." On this sagacious advice we acted, and the result was precisely what the Governor had anticipated; the large force placed at his disposal answered its purpose; so early as 1849 it became safe to commence its reduction, and before we left Office the military expenditure of this Country in New Zealand had been reduced within very moderate limits.

With regard to the civil expenditure of the Colony, the advice of the Governor was founded on the

* See the Governor's Despatch of May 14, 1846. (Parliamentary Papers of January, 1847, p. 16.)

same principle, and we followed it with the same good effect. He pointed out that he was called upon to govern, not only the European population, estimated at that time at 12,000 souls, but the much larger native population, which was supposed to be 120,000; and that New Zealand was not therefore in the ordinary position of a young country, the establishments of which could grow in extent in the same proportion as its population, revenue, and commerce. A large population rapidly becoming civilized, and capable of immediately affording a considerable commerce and revenue, already existed there; but no establishments had been formed for the protection of life, property, or commerce, or for the control and government of this large population, who, if their energies were not directed into proper channels, and if they were not kept under proper control, would certainly attempt to set up the government of various ambitious Chiefs, and would keep the country in a constant state of disturbance and war. He urged that it was "therefore absolutely necessary that a considerable annual expenditure in excess of revenue should be sanctioned for a few years by the British Parliament, to provide for the formation of the public buildings, roads, and establishments which are absolutely requisite for the assertion and preservation of British supremacy, for the control of the turbulent, the protection of life, property, and commerce, and the security of the revenue which the country can at once yield*." He expressed

* See the Governor's Despatch of May 12, 1846, in the Papers presented January, 1847, p. 15.

his strong confidence that, if the grants he considered requisite for these purposes were given, the revenue of the Colony would rapidly increase, and the demands upon the Imperial treasury would proportionally diminish, and in a very few years would cease altogether.

We concurred in these views, and therefore, though the demand we were compelled to make upon the liberality of Parliament was a very heavy one, we did not shrink from making it; nor did Parliament decline to accede to it. By means of the large grants which were voted upon these grounds for the service of New Zealand, the Governor was enabled to prosecute with vigour the various measures of improvement he had described as necessary; and among these there were none which both on civil and military grounds he considered so important as the construction of roads. With reference to these it is a remarkable circumstance which I hope there can be no objection to my mentioning, that at the very time when Sir George Grey was writing from New Zealand to represent the absolute necessity of roads with a view to military security, the great man whose recent loss the Nation has had to deplore was in this country expressing precisely the same opinion. The Duke of Wellington, who had of course been consulted on the military arrangements which were to be adopted in New Zealand, had strongly advised that one of the very first objects to be aimed at should be the construction of roads, so as to afford easy means of communication, and for the march of troops and artillery between the

most important points. These works were accordingly carried forward as rapidly as possible; and as early as October, 1847, the Governor was able to report, "that the great lines of communication which were absolutely requisite to connect the town and port of Wellington with the good country lying beyond the ranges of mountains covered with forests, which surround Wellington, are rapidly progressing, and will probably be quite completed in about eight months from the present date; after which time that town may be regarded as in a state of comparative security, and I think it will then advance rapidly in wealth and prosperity."

In addition to the utility of roads when completed, both for military and civil objects, a very important incidental advantage was obtained from their construction by the employment thus afforded to a large number of the Natives. They eagerly accepted this employment, on account of the wages they earned; and the occupation and the pay they received were very useful, in withdrawing them from the temptation to join those of their countrymen who were inclined to turbulence and plunder; the work at the same time was very valuable, from the industrial training it afforded, as the Governor has remarked in the Despatch which I have quoted. The instruction of the Natives, and the influence over them acquired by the officers who directed their labours, was by no means one of the least valuable results of these undertakings; and Captain Russell, under whose charge

they were carried on, deserves very great credit for the remarkable success with which he availed himself of the labour of the Natives, and for the pains he took in training and instructing them. His reports upon the progress of the work entrusted to his care, which will be found in the Parliamentary Papers, are very interesting; and it speaks highly in favour both of his intelligence and ability, and of the industrious disposition of the Natives, that he has been able to show that the roads he constructed with their help have been made at a very low cost, compared with that of roads in other countries. Major Marlow was equally successful in teaching a considerable number of Natives to work as masons and quarry-men; and he built by their assistance the enclosure-wall of the barracks at Auckland, as well as it would have been done by European labour*, and much more cheaply. It was the Natives employed under him who made the offer I have mentioned, of their gratuitous labour in rebuilding the Government House.

The expenditure for this and the other objects pointed out by the Governor as being important, has completely answered the purposes for which it was incurred. He had, as I have shown, recommended this outlay, in the confident expectation (which we shared with him) that Parliament, by providing liberally for the wants of the Colony for a few years, would be adopting the course of truest economy, because it would thus be enabled the more speedily to diminish the

* See Papers of December, 1847, p. 51.

naval and military force employed there, and also soon to reduce, and before long to discontinue altogether, the annual grants for the charges of the Civil Government of New Zealand. We trusted that this would be rendered practicable by the secure establishment of peace, the rapid increase of the Colonial revenue, and the diminution of expenditure, as the public works most urgently wanted should be completed.

This anticipation has been amply verified by the result. The amount voted by Parliament in 1847 for the service of New Zealand was £57,000; in the three next years, including a vote for arrears in 1850, it averaged about £27,000 a year; in 1851, the vote was reduced to £20,000; in the present year to £10,000, and in the estimates of this year it is stated that the Governor is of opinion that if Parliament should next year make a final grant of £5000, New Zealand will afterwards be able to maintain its own civil establishment without any further assistance. The fact that it has been found possible to provide at so early a period for relieving the Mother-country from any charge on account of the Civil Government of the Colony, is the best justification of the large votes we proposed in the first years of your Administration.

We also deferred to the opinion of the Governor upon another subject of extreme importance: I refer to the question as to the proper time for establishing representative institutions in the Colony. On our appointment to Office, at so late a period of the Session of Parliament as the beginning of July, we had

but very little time to consider what measures of legislation were so immediately required as to render it expedient that they should be brought forward at once, instead of being deferred to another year. It was probably owing to our being compelled to come to a decision without an opportunity of full deliberation, that we were induced to adopt, what proved to have been a hasty and erroneous conclusion as to the propriety of giving a Representative Constitution at once to New Zealand.

There were not wanting what appeared to be very powerful reasons in favour of this course. The form of Government which existed in New Zealand had undoubtedly altogether failed in securing, for the last five or six years, a wise and vigorous administration of its affairs; on the contrary, there had been during that time a series of mistakes committed by the local Authorities, producing the worst effect on the interests of the Settlers, amongst whom a strong feeling of discontent with the whole system of government had thus been created, and an eager desire to take the management of their own concerns into their own hands. We were of opinion that there was so much substantial ground for these feelings, that we were extremely unwilling to defer till another Session obtaining from Parliament authority to make the desired change in the system of Government in New Zealand. We believed also, that the obvious difficulty of giving to a representative Legislature the power of legislating for the Natives, in the election of which

they could have no influence, might be obviated, by empowering the Crown to define districts within which the laws and customs of the Natives, so far as they are not repugnant to the general principles of humanity, should be maintained in force.

Influenced by these considerations, we proposed to Parliament a Bill, which was passed into a law, by which the Crown was empowered to establish representative institutions in the Colony. The leading principle of the measure was, that there were to be two Provinces having distinct Legislatures, with authority to make laws on most subjects, but restrained from doing so on some, which were to be reserved for the consideration of a general Legislature acting for both Provinces. Within those portions of the territory not occupied by Europeans, provision was made for the government of the aboriginal inhabitants of New Zealand by their own laws and customs. The Act which was passed, prescribed only what was to be the general nature of the new Constitution, and conferred upon the Crown exceedingly extensive powers for filling up the outline thus traced, and making all the regulations of detail that were required for bringing the proposed system of government into operation. In the exercise of these powers, a Charter under the Great Seal and instructions to the Governor under the Sign Manual were prepared. By these he was authorized to summon the representative Legislatures which were to take the place of the existing Legislative Council, and all the arrangements necessary for

that purpose were provided for. These instruments were transmitted to the Governor in an explanatory despatch, which bore date the 23rd of December, 1846*.

When the above despatch reached the Colony, the Governor immediately wrote to represent in strong terms the danger which, in the then state of New Zealand, would have arisen from the discontent that would infallibly be excited among the Natives, by the proposed change in the form of government. He pointed out, that they were large contributors to the revenue, the disposal of which was to be entrusted to a Legislature in which they would be altogether unrepresented,—that they were quite intelligent enough clearly to perceive this, and the injustice to them of such an arrangement. Adverting to the disturbances which had just taken place, to the unsettled state of their minds, and the disposition to turbulence that still existed, he deprecated in the strongest terms the immediate introduction (at least into the Northern Province) of the proposed form of Government, which he said might probably, in a few years, be safely and with advantage established †.

The Governor's despatches to this effect reached this Country in November, 1847, and we did not hesitate to act upon his advice. He was at once informed that we would propose to Parliament a Bill, to sus-

* See Papers presented to Parliament in January, 1847, p. 64.

† See his Despatches of the 3rd and 13th of May, 1847, in the Papers presented in December, 1847, pp. 42, 47.

pend for five years the operation of so much of the Act of 1846 as related to the establishment of Representative Legislatures in New Zealand, and to enable Her Majesty for the same time to reconstitute the former Legislative Council. As it appeared however from his despatches to be desirable, that the proposed division of the Colony into two Provinces with distinct Legislatures should take place, while it seemed doubtful whether, in the Southern Province, that Legislature might not be in part of a representative character, we intended that the Bill to be submitted to Parliament should contain provisions by which the revived Legislative Council for the whole Colony should be empowered to establish Provincial Legislatures, of which it should be at liberty to determine the constitution*.

A Bill to this effect was accordingly brought in and passed. The authority thus entrusted to the Governor has been used with great discretion and advantage; he established subordinate provincial Legislatures, and by passing various important and useful laws, in furtherance of that general system of policy which I have described, he removed all obstacles to the establishment of representative government in New Zealand, even before the five years for which it had been suspended had expired; and if the pressure of other business in the House of Commons had not rendered it impossible, we should have brought in a Bill for this purpose in the Session of 1851. In the

* See Despatch to the Governor, of November 30, 1847, p. 47.

Session of this year it was one of the subjects recommended to the attention of Parliament in the Queen's Speech; and, after the change of Administration, a Bill was brought forward and passed by our successors, by which the intended grant of representative institutions to New Zealand has been accomplished, —not precisely in the manner I could have wished, but in one to which I see no material objection. The leading principle of the Act of 1846—the division of authority between subordinate Provincial Legislatures, and a general Legislature for the whole Colony—has been adhered to.

I must not quit the subject of New Zealand, without saying a few words on the relations between the New Zealand Company and the Government. Whatever may have been the merits or demerits of the original scheme of that Company, it was universally acknowledged that its chances of success had been greatly diminished by the ill-judged measures of the local Authorities, who had thrown difficulties in the way of the enterprise from its very beginning to which it ought not to have been exposed. Hence it had been acknowledged by Lord Derby, that the Company had a fair right to expect from the Government assistance, which might in some degree make up for the disadvantages to which it had thus been exposed. Before he went out of Office, he had commenced an arrangement, which was confirmed and completed by his successor, Mr. Gladstone, bywhich a considerable sum of money was to be advanced to them with this view.

The Company however did not admit the sufficiency of this compensation; and, after much communication with them, it was agreed that a proposal should be submitted to Parliament, the principle of which was that a further advance of money, and very large powers of administering the Crown lands in the southern division of the Colony, should be entrusted to them; under an agreement that, if in three years they should fail in placing themselves in a situation to carry on with advantage their colonizing operations, they should be at liberty to resign their functions and all their claims to land into the hands of the Government. Should they decide on doing so, they were to receive in return for the surrender of their Charter and of all their other property and rights, a release from their obligation to repay the sums advanced to them, and a claim to have their original capital, which had been sunk in the colonization of New Zealand, repaid to them from the proceeds of the sales of land in the Colony.

A Bill to give effect to this arrangement was submitted to Parliament, and passed. I do not think it advisable, on this occasion, to enter into further particulars on this subject, partly because the transactions between the Government and the Company were so exceedingly complicated, (in consequence of proceedings which had taken place prior to our appointment to Office,) that an intelligible statement of what has taken place could not be made without protracting this Letter to a most tedious length, while the few

persons who would be likely to take an interest in the subject will find all I could say upon it in a speech which I made in the House of Lords in June last, on the second reading of the New Zealand Bill, and which is of course recorded in the Debates*. But my chief reason for abstaining from giving any more detailed account of the transactions in question is, that I understand it to have been arranged that they are to be investigated by a Committee of the House of Commons as soon as possible, and that, in the anticipation of such an inquiry, it would be hardly proper for me in this form to state my own view of the case. Here therefore I will close my Letter on the subject of New Zealand.

November 20, 1852.

* I add in the Appendix an extract from the Report in Hansard's Debates of the speech in question. See Appendix (B) to this Volume.

LETTER XI.

CEYLON.

My dear Lord John,

I have next to speak of the affairs of Ceylon; and although, in the last three years, they have occupied a very large space both in the leading articles of the newspapers and in the reports of the debates in Parliament, and though the papers relating to this Colony, which have accumulated on the table of the House of Commons, form an enormous mass, I yet hope to restrict what I must say on the subject within a moderate compass.

The principal difficulties we had to contend with in Ceylon were those which arose, directly or indirectly, from the embarrassed condition in which we found its finances; and I must therefore look back to a time a little earlier than our coming into Office, to explain the origin of this disorder in its pecuniary affairs. The evil is to be traced to the too great reliance which was placed on the apparent prosperity occasioned by the sudden extension given to

what might almost be called a new branch of industry in the Colony. The cultivation of coffee first began to be of importance in Ceylon soon after the equalization, in 1835, of the rates of duty levied in this Country on East and West India coffee, and it received an additional impulse from the subsequent reduction of the duty in 1842*. Large profits must probably have been made by those who first engaged in the business, as a great amount of capital speedily flowed into it. The total number of acres planted with coffee in the Island prior to 1845 was only 26,429, and in the two years 1845–1846 this extent of coffee plantation was nearly doubled; the new plantations made in those years having amounted to 22,319 acres.

Before a new coffee plantation can be made, very heavy expenses have to be incurred in the preparatory operations, of clearing the land and erecting the necessary buildings; the fact therefore that so great an extent of land was planted in these two years, proves that there must have been a previous large investment of capital in this business. While that investment was in progress, it gave to the Colony an appearance of great prosperity; for whatever might be the ultimate profit or loss to those who brought the capital into the Island, their expenditure, while it lasted, could not fail to give a great stimulus to trade and to the revenue. The greatest effect was

* See Porter's 'Progress of the Nation,' p. 752. The quantity of coffee imported into this Country from Ceylon was in 1835, 1,870,143 lbs.; in 1846, 17,735,406 lbs.; in 1849, 35,640,958 lbs.

produced on the revenue derived from the sale of land. The system of disposing of the Crown lands by sale had only been introduced in 1837. In the first three years the receipts from this source increased about £7000 a year; in 1840 the amount received was £19,994 (being rather more than double that in the preceding year); and in the years 1843, 1844, and 1845, the money received for land rather exceeded £94,000*.

During this time of excitement the revenue derived from Customs was also suddenly and unnaturally increased: it rose from £78,000 in 1843, to £88,000 in 1844, and to £110,000 in 1845†. The inevitable revulsion soon followed, and when Lord Torrington, who had been appointed Governor, reached Ceylon in the month of May, 1847, he found that the balance of £200,000 in the Colonial Treasury, which the latest accounts received in England prior to his departure, had encouraged him to expect would be available for effecting improvements in the system of taxation, was already virtually disposed of. The revenue had fallen as suddenly as it had increased, the receipts from land had fallen from an average of above £30,000 a year, for the three previous years, to £13,054 in 1846, and in the current year were producing at the rate of less than half this reduced amount‡. The

* See Appendix to Third Report of the Committee of the House of Commons on Ceylon, p. 252.

† Ibid. p. 246.

‡ The amount received in 1847 was £6471.

other branches of the revenue were affected in like manner, but to a less extent, and the result was that in 1846 there had been an excess of expenditure over receipts of above £74,000, and it was probable that the deficiency would be still greater in 1847; while it was found on investigation, that a part of what had been returned as the available balance in the Colonial Treasury consisted of notes of the Government paper currency, the issue of which would, in fact, be equivalent to raising money by loan, as the payment of these notes might be claimed at any time*.

In these circumstances very decided measures were obviously necessary, in order to preserve the Colonial Government from impending bankruptcy. Unfortunately it was extremely difficult to do anything effectual for that purpose. In the past years of prosperity, the expenditure of the Colony had been increased more than in proportion to the increase of the revenue, though it certainly might have been foreseen that the latter had been much too sudden to last. The income of the Colony had risen, in 1845, to £454,146, being £89,000 above the average of the five preceding years, and £10,000 above the income of 1844, which was itself considerably in excess of that of any previous year. Of this large receipt no less a sum than £37,946 was derived from the sale of land, a source of income necessarily precarious and fluctuating, since very large sales of land for two or

* See Lord Torrington's Speech in the House of Lords on the 1st of April, 1851.

three years, are invariably followed by a proportionate falling off in the demand. Though the increase in the revenue was of a nature to hold out so little prospect of permanence, it had been considered by the previous Government to justify a still larger increase in the expenditure, which in the same year, 1845, had been carried up to £448,232, being within less than £6000 of the amount paid into the Colonial Treasury in that year of unusual receipts, and being £105,000 above the average of the five preceding years*.

The circumstances of the Colony were no doubt such as to make some addition to the expenditure unavoidable. The purchasers of land had a right to expect from the Government, that the large amount paid by them for the land they had bought, should be applied in making roads, by which supplies might be sent to their estates, and the produce carried back to the port of shipment. The expense however incurred in making new roads was far larger than the receipts for land, and the money had also been laid out in such a manner as to render it impossible at once to diminish the expense when the altered state of the Colonial Treasury required it. Many roads had been begun and not completed, which, if left in that state, would soon have been destroyed by the tropical rains to which they would be exposed; and

* See Lord Torrington's Despatch of November 15, 1849, and its enclosure. (Appendix to Third Report of the Ceylon Committee, pp. 244–252.)

in that climate roads even when finished require such constant attention, that the expense of constructing them, far from being all that is to be considered, ought to be regarded as leading to a permanent charge for their maintenance.

But the increase of expenditure had by no means been confined to that which had been occasioned by the measures taken for supplying the want of roads which was so urgently felt. Lord Torrington found, on his assumption of the Government, that the annual fixed charge of the Civil Establishment had been augmented by not less than £40,000* since the year 1841, a large part of this increase being the consequence of a complete re-modelling of the civil service of the Colony, which had been made by the authority of Lord Derby in the year 1845. This had occasioned a very considerable addition, not only to the immediate charge of the Civil Establishment, but also in the prospective one for pensions. From the nature of the civil service of Ceylon, it was difficult to make immediate reductions to a large amount in the cost of the establishment, without giving just ground of complaint to those who had adopted this service as a profession, under regulations which give them a right to look to it, as a secure provision, so long as they should discharge their duties properly.

It will be seen that the facts I have mentioned

* See Blue Book Reports presented to Parliament in 1848, p. 293.

would of themselves have been sufficient to render the financial condition of the Colony one of great embarrassment; but there were other circumstances which aggravated the difficulties to be contended with. At the very moment when, even if he could retain the whole of the existing sources of revenue, it was hard to see how Lord Torrington could bring the expenditure within the income, and put a stop to the excess of the former, which, by the end of the current year, must absorb the whole surplus accumulated in the Treasury in better times; it also became evident that, in addition to the falling off in the land sales, another of the chief sources of revenue was no longer to be depended upon. Hitherto the export duties had contributed a large sum annually to the Treasury, the most important articles upon which these duties were levied being cinnamon and coffee. The former of these articles in particular (of which Ceylon was long supposed to possess a natural monopoly) had, from the time when the Island belonged to the Dutch, always yielded a large though fluctuating revenue, either as a Government monopoly, or by the imposition of an export duty. But the time was now come when it was clear that this could not be maintained. The competition of cassia from China and India, and of cinnamon, which the Dutch had succeeded in growing in Java, had so reduced the price and the demand for the cinnamon of Ceylon, that it was obvious the latter could no longer be produced without loss, if it continued to

be burdened with the heavy export duty then levied in the Colony. The proceeds of the duty had fallen to £20,000 in 1846, and, from the information collected, there appeared no room to doubt, that the only effect of continuing the tax would be, not to preserve the revenue, but to put an end to the cultivation of cinnamon in the Island; whereas, by at once abolishing, or greatly reducing the export duty, there was every probability that a valuable branch of industry would be saved.

The necessity for affording some relief to the coffee-growers was little, if at all, less urgent. When Lord Torrington reached the Colony, the re-action from the excitement of 1845 had already begun, and the prospects of the coffee-grower, which had some time before been supposed to be so brilliant, were assuming a very gloomy appearance. A few months later things became much worse, and the growers of coffee in Ceylon were scarcely less severely affected than the sugar-planters in other Colonies, by the commercial disasters of the latter part of 1847; though the distress of the former could not be attributed to their having been deprived of protection, inasmuch as there had been no change in the rates of duty levied in this Country on coffee since the year 1844. Hence it was clear, that the distress must have been occasioned by those general causes which at that time disturbed the trade of the world, and by the want of caution with which coffee-planting had been undertaken upon so large a scale, and conducted in so

expensive a manner. But although the difficulties of the Planters had arisen chiefly from their own want of prudence in embarking in the speculation, it was not the less important that whatever was practicable should be done for their relief; and there was no measure so well calculated to answer this object, as the repeal of the export duty on coffee, or more called for by a variety of considerations.

Such was the state of things with which Lord Torrington found himself called upon to deal, immediately upon his arrival in the Colony. The course which he took was at once to issue a circular to the different departments of the local Government, enjoining the reduction of the expenditure within the very narrowest limits that might be practicable*; and he set himself earnestly to the task of retrenching every item of charge which could be dispensed with or deferred, without injury to the public service. He also applied himself, with the assistance of his Executive Council, to a careful investigation of the general condition of the Island, with the view of being enabled to propose to the Legislative Council, when it should assemble toward the close of the year, such measures of legislation as should seem best adapted to meet the difficulties of the times.

After much deliberation, the conclusion arrived at was, that a bold policy would be the best and safest; that, notwithstanding the apprehended deficiency in the revenue, it was necessary, for the relief of trade

* See Lord Torrington's Speech quoted above.

and the encouragement of commercial enterprise, to submit to a further considerable loss of income by the repeal or reduction of some of the most injurious taxes. It was determined that the export-duties should be abolished, except that upon cinnamon, which was to be reduced by two-thirds, a duty of fourpence instead of a shilling a pound on the export of this article being (reluctantly) retained for the present. It was further resolved that the differential duties upon imports should also be abolished, by reducing the duties on foreign to the same rate as those on British goods. The total loss of income from these reductions was calculated to exceed £40,000. To meet the deficiency which would be thus occasioned, or rather increased, the Governor and his advisers looked partly to the exercise of the most rigid economy, and the postponement of every expense which could possibly be deferred, until the Colony should rally from its actual state of depression; partly to the imposition of some new taxes of a less objectionable character than those which were to be repealed; but, above all, to a measure they contemplated, by which the general revenue should be relieved from a part of the expense of making and keeping up roads throughout the Island, by converting this into a local charge under local superintendence*.

This policy was strictly in accordance with our views,

* See Lord Torrington's Speech in the House of Lords, and the Despatch of November, 1849, already quoted, and also his various Despatches from the 8th of June, 1847, to the 6th of May, 1848, in the Papers laid before Parliament in February, 1849.

which had been fully explained to Lord Torrington previously to his departure from this Country; and when the Legislative Council met, at the end of 1847, he brought before it a series of Ordinances, which were in due time passed, for giving effect to the proposed measures. The new taxes imposed were, a stamp-duty (which was not strictly a new tax, but an alteration and increase of an old one), a shop-tax, some slight increase of the customs-duties on wines, opium, and some other articles, together with some minor taxes, including license-duties on guns and dogs. The imposition of some of these taxes, particularly the last, was afterwards made the subject of severe censure on the Governor, which it would not, I think, be difficult to show to have been altogether unfounded. I do not however consider it worth while going into the subject. That Lord Torrington's financial policy as a whole was in the highest degree successful, is a matter of fact on which there can be no dispute; and this being the case, it is but of little consequence whether or not errors were committed with regard to the minor taxes which were afterwards repealed or modified, namely the taxes on shops, guns, and dogs, the last of which was rather intended to abate a nuisance than to raise a revenue.

Leaving these petty points, which nothing but personal or party animosity could ever have magnified into matters worthy of serious notice, I have to observe that by far the most important of the series of measures to which I have adverted, was that which

was known by the name of the Road Ordinance. The construction and maintenance of roads was one of the heaviest charges upon the Colonial Treasury; yet, so far from its being advisable to curtail the work of this kind which was done, it was of the highest importance to the progress and prosperity of Ceylon that the roads should be improved and many new ones made. The imperfection of the existing means of transit, and the consequently heavy expense of bringing down their produce and of sending supplies to the higher country, which is the best adapted for the growth of coffee, was one of the greatest difficulties with which the Planters had to contend. At once therefore to relieve the Colonial Treasury from a heavy burden, and to provide for an extension and improvement of the means of communication, the Road Ordinance enacted that every male inhabitant of the Island between eighteen and fifty-five years of age should be required, either to perform six days' labour on the roads, or to commute that service for a payment in money, the amount of which varied according to the value of labour in different places, but was nowhere more than three shillings.

A local organization was likewise established, for regulating the application of the money or labour thus contributed by the population to the roads. In each of the six Provinces into which the Colony is divided, there was to be a Provincial Road Committee, of which the Government agent was to be chairman, the Commissioner of Roads or one of his assistants a member,

and at least two of the other members were to be persons not holding office under the Crown. The main lines of communication, under the name of "Principal Roads," were to be under the general direction of the Provincial Committee, which were annually to allot two-thirds of the labour or money contributed by the inhabitants, to the works they considered most necessary. The arrangements proposed for this purpose by the Commissioners were to be subject to the approval of the Governor. The minor roads and paths were to be under the direction of District Committees appointed by the Provincial Committee, and to this class of roads one-third of the labour and money contributed by the population were to be applied. In order to ensure a due return of advantage to those who were thus required to give money or labour, it was provided that on principal roads the work done should be within twenty miles of the residence of the contributors, and on minor roads within seven. The District Committee were to be assisted in the performance of their duties, and more especially in making out the lists of the persons on whom the obligation to contribute money or labour was to be imposed, by "Division Officers," who were to be elected by the householders in the "Divisions" into which the several districts were to be subdivided.

Such were the leading enactments of this very important Ordinance; a full explanation of its provisions, and of the objects contemplated by its framers, will

be found in Lord Torrington's Despatch of the 6th of May, 1848*. It will be seen, on reference to that Despatch, that although in the first instance the Division Officers were to be the only persons elected to their offices, employed in the execution of the law, the measure was intended as the beginning of a system of Municipal organization, by which the population might gradually be brought to take a greater share in the management of their own affairs. The appointment of the Division Officers by election, was a step of no slight consequence towards acting upon the views explained by Sir William Colebrooke in the report made by him in 1832, as one of the Commissioners of Eastern Inquiry, and in his memorandum of 1834, which are referred to in Lord Torrington's Despatch. Sir William recommended that an attempt should be made again to bring into use the ancient village councils, or "Gansabes," of Ceylon, "institutions once popular among the inhabitants of the interior, and requiring little regulation to render them an efficient means of providing for the police, the registration of lands, and other objects of local interest." It is well known that the organization of village communities which has existed in India, and generally among the Eastern nations from the earliest ages, has been regarded by the most competent judges as productive of very great advantages. Sir Stamford Raffles, during the short occupation of Java by the British, contemplated restoring to these original native

* Papers of February, 1849, p. 113.

institutions some portion of the effective character they had lost; and by his regulations of 1814 (which were abolished by the Dutch) he gave to the inhabitants of every village the right of electing their own Headman, subject to the confirmation of the Resident, whose duties in Java were analogous to those of the Government Agent in Ceylon. It would certainly have been impossible to select a Governor of an Eastern people, affording a better model for imitation than Sir Stamford Raffles, and in providing for the election of Division Officers by the people, Lord Torrington followed closely the steps of that distinguished man, in allowing the "Headmen" to be chosen by the villagers of Java. The Road Ordinance therefore I consider to have been a very valuable one, and to have supplied a means of communication between the Natives of Ceylon and the officers of the Government, which had hitherto been wanting.

Another important feature of the measure was, that it proposed to raise the means for the construction and improvement of roads by direct taxation, since to require statute labour commutable for a money payment, is in fact to impose a direct tax. I have already, in speaking of the West India Islands, quoted part of a Despatch which I addressed to Lord Torrington, explaining my reasons for believing that, in such a state of society as that which exists in Ceylon, direct taxation is the most advantageous system of raising the money required for carrying on the public service. A capitation tax is not perhaps in itself the

best mode of imposing a direct tax, but it was probably the only one which could have been made promptly available, owing to the various obstacles which existed in Ceylon to the levying of any other tax. An assessment on land, which would in many respects have been preferable, could not be attempted without a survey, the completion of which would have taken much time; and it is also a great difficulty in the way of a land-tax, that land is frequently held in Ceylon by joint tenants and in very minute portions. I may add, that from the first the Road Ordinance has worked well, and that, in the last Report upon the state of the Colony, which bears the date of April, 1852, it is stated by the present Governor to have been "a very beneficial law for the practical and general good of the people."

This measure however was not to come into operation until the beginning of 1849, nor could much, if anything, be expected from the new taxes at an earlier period. It was therefore mainly to the reduction of expenditure that the local Government was compelled to look in the meantime, for averting the very serious consequences to be apprehended, from allowing the outgoings from the Colonial Treasury to continue to exceed the receipts, to the extent they were doing when Lord Torrington arrived in Ceylon. But, for the reasons I have mentioned, the Governor and his Council believed it to be impracticable to bring the expenses of the Colony within its income, at least for a considerable time; and they therefore concurred

in making an urgent application to us for relief from the annual payment of £24,000, required from the Island on account of the military charges, and also for an advance from the Imperial Treasury*.

These proposals, though very urgently pressed upon us, we considered it quite impossible to agree to. Our opinion, for the reasons I have mentioned in a former Letter, being that the contributions from the Colonies generally towards the cost of their own military protection ought to be increased instead of diminished, we could not acquiesce in forgoing the annual payment into the Military Chest which had for many years been required from Ceylon, and from which successive Governors had earnestly but in vain endeavoured to get it relieved. An advance from the Imperial Treasury would have been still more inadmissible. The only answer therefore that could be returned to the Governor, was one informing him that what he asked could not be granted, approving his various financial measures, enjoining a yet more severe economy, and authorizing him, if in spite of all his endeavours he should be unable otherwise to find the means of meeting the demands upon the Colonial Treasury, to raise a loan, in order to give time for the various measures of retrenchment which had been adopted to be brought into full operation. A despatch, stating fully the views of Her Majesty's Government on the financial condition of Ceylon, was addressed to the Governor on the 17th of July, 1848, which he

* See Papers of February, 1849, pp. 92, 99.

was directed to lay before his Executive Council, and he was desired with their assistance to prepare a plan for the revision of the civil establishment, so as to bring the expenses of the Colony within its means. This plan, after being submitted to the examination of the Legislative Council, was to be sent home for approval*.

The Governor, without waiting for these instructions, had from his first arrival in the Colony applied himself very vigorously to the work of retrenchment; but unhappily this was a work not less ungracious than it was necessary. The indispensable reductions of the public expenditure could not be accomplished, without affecting the interests of many individuals, and this was felt directly or indirectly by a large proportion of the persons employed in the public service. Those engaged in the trade of the Colony, and in its principal branch of industry, were also suffering severely from the commercial difficulties of the times. Thus both these classes, of which the European society of Ceylon is chiefly composed, were in 1848 in circumstances which almost invariably create a disposition in men to find fault with the Government under which they are living. In this state of things it is not perhaps surprising, that when, in the summer of that year, the central provinces were disturbed by an insurrection which, after creating much alarm for a short time, was put down by prompt and vigorous measures, a cry was raised by a small number of

* See the above Papers, p. 333.

persons in the Colony (and afterwards taken up with greater violence by a party at home) that the insurrection had been occasioned by the oppressive character of the taxes imposed by Lord Torrington. It was loudly asserted that, after having thus driven the people to rebel, he had displayed wanton and cruel severity in suppressing the rebellion and punishing those engaged in it.

The assertion that the taxes produced the rebellion is so far true, that there is little reason to doubt that the imposition of new taxes, of which little was yet known, afforded an opportunity to the discontented classes of the natives to misrepresent the intentions of the Government. Absurd tales as to the nature of the new taxes were circulated, to excite the ignorant population, and induce them to revolt. But it most certainly is not true that the oppressive character of the burden imposed upon the population drove them to rebellion. So little was there in these taxes calculated to create discontent if they had been understood, that the one which might have been supposed to be most obnoxious—the Road Ordinance—has appeared, since it came into operation, to be a popular measure, the people willingly contributing the small amount of labour or money required from them, for the sake of the advantage they derive from obtaining improved means of communication.

But while the population only knew that some new taxes had been imposed, but were still almost entirely ignorant of their nature, it was not difficult for the

chiefs and priests, who for other reasons had long been discontented, to spread abroad false reports as to the oppressive character of the burdens to which the people were about to be subjected, in order to drive them into revolt. Nor is it difficult to account for the discontent of the chiefs and priests, which had already shown itself more than once in treasonable plots*. They felt that their influence over their countrymen was gradually fading away, from their being brought into contact with European civilization, and from the restrictions imposed by our laws, on the exercise of the unchecked power they had once possessed over the lower classes of their countrymen. The extension of coffee-planting, by bringing many Europeans into districts in the interior where, till lately, they had seldom if ever been seen, had greatly accelerated the change in the state of society which was obviously in progress; and it was only natural that, to those who saw in this change the certain loss of their own former station and consequence, it should be in the highest degree distasteful, and that they should be anxious to overthrow British authority, by which they were aware that it was brought about.

I believe that from the same causes a similar spirit of disaffection has been found, in the earlier years of British supremacy, to prevail very generally among the higher classes of native society in the various countries of British India which have been successively brought

* There had been actual or attempted insurrections in the following years:—1817-18, 1823, 1824, 1834, 1843.

under our dominion; and that something very similar may be observed wherever a semi-civilized or a barbarous people is brought under British rule. That rule is generally a blessing to the population at large; but it is not less generally obnoxious to those who, as priests, or chiefs, or nobles, have been at the head of the native society, because, in addition to their feeling painfully their inferiority to the ruling race, they also find that they can no longer maintain their station among their own countrymen, when British authority interferes with the exercise of their former tyrannical power, and when British example and the diffusion of education gradually emancipate the minds of the mass of the population from the superstitions by which they were enthralled.

Perhaps more might have been done in Ceylon and elsewhere to render the spread of civilization, and the establishment of a system of government by which the lower classes of the people are protected from oppression, consistent with the maintenance of the relative position in the native society of those who have hitherto been at its head. This would have been highly desirable, because it would avert much danger and greatly promote the progress of improvement, if the natural leaders of such a native society could be made friends instead of secret enemies to British authority, by finding their interests attended to and their feelings consulted. But how this is to be accomplished is a problem of extreme difficulty, which has, I fear, nowhere been very satisfactorily solved.

In addition to those usual causes which, in Ceylon, as in other countries in similar circumstances, tend to alienate certain classes of the population from their rulers, there was in that Island a further source of disaffection. The priests have very considerable influence over the population, and they were much discontented with the effect of the steps which had been taken for several years, for the purpose of disconnecting the Government from any share in the management of the temples devoted to the Buddhist worship, or of the lands with which they are endowed. Nothing can be more proper than that the Government of a Christian nation should refuse to undertake the appointment of the priests of an idolatrous religion, or the management of their temple lands. But hitherto successive Governors of Ceylon have failed in discovering any mode of practically applying the rule to this effect laid down for their guidance, without giving the Buddhist priests some right to complain of the non-performance of the engagement, entered into by treaty when the country came under our dominion, that the people should be allowed the free exercise of their religion, and that the endowment of the temples should be maintained.

Under the native Kings, the maintenance of the national religion was so identified with the Government, and the religious establishment was so closely connected with the supreme authority of the State, that when power passed into the hands of a Government which, regarding the national worship as

idolatrous and superstitious, thought itself bound to refuse any active assistance in carrying it on, the priests were altogether at a loss how to act for themselves, and unable, without the aid, which was refused to them, to make any satisfactory arrangement for filling up vacancies in their own body, or for protecting the temple lands from encroachment. The difficulty of providing for the appointment of priests to the temples, when the Government refused to take this duty upon itself, has been more particularly embarrassing, in consequence of the peculiar tenets of the Buddhist religion and of the state of society. Sir Colin Campbell could not discover any satisfactory mode of acting upon the instructions on this point which he had received from Lord Derby; and Lord Torrington, to whom the same instructions were repeated, was equally embarrassed. It is doubtless one of the most difficult questions that can arise in the government of any country, and I much doubt whether it admits of any perfectly satisfactory solution. Certain it is that the attempt which was made (and after all with very partial success) to disconnect the Government of Ceylon from an idolatrous religion, contributed not a little to increase the discontent of the priests.

Such are the causes which, from the best information that has been obtained, seem to have made the chiefs and priests of Ceylon for many years discontented; nor can it be doubted that the rebellion of 1848 is to be traced to this discontent, and not to any

grievances to which the great body of the natives were subject. The latter only followed those whom they had been accustomed to follow, and whose influence, aided by misrepresentations as to the intended taxes, was still sufficient to lead the population into rebellion. On the part of the real authors of the revolt, it was an attempt to use, while it still lasted, the power they felt to be gradually slipping out of their hands, for the overthrow of British authority. But though the people at large had no real interest in the success of this attempt,—since, instead of being oppressed by their present rulers, they have been released by them from the grinding tyranny to which they had been subject under their native princes,—they were at the same time so ignorant, so easily led by the disaffected chiefs and priests, and so numerous, whilst the force at the disposal of the local Government was in comparison so exceedingly small, and the nature of the country and its extent were so unfavourable to military operations, that the danger when the rebellion broke out was most serious; and, if it had not been crushed at once, it would in all probability have led to a protracted and doubtful contest.

After various rumours of disturbance and symptoms of agitation and disaffection, a pretended descendant of the former Kings of Kandy was crowned by the priests in the Temple of Dambool, on the 26th of July, 1848. Large numbers of men assembled in arms in different places, one party of whom attacked the town of Matelle, drove away the magistrate, sack-

ing and plundering various public buildings. The town of Kurnegalle was also attacked, and was for a short time in the power of the insurgents.

In these circumstances Lord Torrington acted with vigour and decision. He proclaimed martial law in the disturbed districts; he lost no time in sending a steamer to Madras to obtain reinforcements, which were promptly furnished by the Government of that Presidency; and he made, in concert with Major-General Smelt, who commanded the troops, arrangements for placing as large a proportion as possible, of the small force at his disposal, under the orders of Colonel Drought, the Commandant of the Central Province. Colonel Drought and the officers under him acted with no less vigour, and in a very few days all open resistance to the authority of the Government was at an end, though it was some time before the pretended King could be taken. Eighteen of the most guilty of the rebels were sentenced to death by courts-martial and executed, and minor punishments were inflicted upon a considerable number of others.

These decided measures, and the prompt example that was made of some of the ringleaders, produced the desired effect; tranquillity was completely restored, and has not since been disturbed. Many lives and much misery were saved by this speedy re-establishment of order. Though, compared with averting a great destruction of human life, it was very secondary, yet it was not of small importance, that a very heavy pecuniary loss to the Colony was pre-

vented, by the early return of a feeling of security, after the great alarm which had existed at first. A crop of coffee, of great value, was nearly ready for gathering when the insurrection occurred: if the alarm had continued only a little longer, the labourers would have been deterred from coming as usual from India to secure it, and the loss to many of the Planters must have been almost ruinous. The infliction of so severe a check on this important branch of industry, just as it was showing the first signs of recovery from the difficulties it had gone through, was happily avoided, and the Coolies came from India with their usual confidence. As soon as we received information of these events, we thought it our duty to advise the Queen to signify her approval of Lord Torrington's conduct in suppressing the rebellion.

But the danger was hardly over, before Lord Torrington became the object of violent attack both in the Colony and at home. In the Colony, however, his assailants were rather noisy and bitter than numerous; the great majority of the European community were too sensible how much they owed to him, and how serious the peril had been, to take any part in these attacks; and, on the contrary, a very large proportion of the most respectable planters and merchants signed addresses, expressing in strong terms their gratitude for the protection they had received, and their sense of the services which Lord Torrington had rendered to the Colony. A similar address was also unanimously voted by the Legislative Council.

In this Country the events which had occurred in Ceylon were used as a political engine against the Government. The leaders of the Opposition did not indeed generally take an active part in the attacks made upon Lord Torrington, but they had not the generosity to discourage these attacks, which were made, with a degree of rancour of which there are happily few examples, by persons of less note, and by the daily and periodical press connected with the parties opposed to the Government.

It was represented, that the insurrection had been occasioned by measures which were described as oppressive and unnecessary; it being studiously concealed that, whether the new taxes were good or bad, except the insignificant gun-tax, they had not begun to be levied when the rebellion broke out, and that the necessity of raising some new taxes or other, to meet the difficulties occasioned by the imprudence of preceding Administrations, was undeniable. It was still more loudly asserted that the insurrection, produced by misgovernment, had given occasion for acts of wanton and disgraceful cruelty, for which no terms of reprobation were too strong to be heaped upon Lord Torrington and the Government at home, by whom his conduct had been approved and supported.

I cannot forbear expressing my surprise (and I must add, for the sake of the persons to whom I allude, my regret) that some of those who countenanced these charges, were induced to do so. I am at a loss to understand how such accusations could

ever gain credit with men capable of forming an impartial judgement, considering how unsupported they were by anything like trustworthy evidence, and how utterly improbable they were in themselves. I should have thought that no one could fail to perceive, that it was the obvious interest of Lord Torrington to suppress the insurrection as speedily and with as little severity as possible, and that he must have wished to do so, if for no higher motive, at all events for the credit of his Government. On the other hand, he could have no conceivable motive for the cruelty imputed to him, but that of a love of blood for its own sake, and a wanton pleasure in the infliction of suffering, which are fortunately rare even in the worst men; while, even if it could be supposed that Lord Torrington was actuated by such feelings, he could not have gratified them, except by the assistance of officers of the British army.

All the rebels who suffered death were convicted by Courts-martial, composed of officers of the regiments employed in Ceylon; the sentences pronounced by these Courts were duly approved by the officers in command at the places where the trials were held; and Lord Torrington's responsibility is confined to that of having declined to exercise his power as Governor, to remit the punishment of death, which the Courts-martial had thought it right should be inflicted on a comparatively small number of the ringleaders in the rebellion. In some of the cases, I believe that Lord Torrington would not have had

the power to interfere, even had he wished it, because, if I am not mistaken, some of the capital sentences were carried into execution before there was time to report to him upon the subject, it having been justly considered that the effect of the punishment greatly depended upon its being prompt, and that by making it so the public safety would be sufficiently secured, by inflicting it on a smaller number of persons than might otherwise be necessary. When it is remembered, that the British army has always been distinguished no less for its humanity than for its courage, and that an officer guilty of wanton cruelty would, from the general feeling which pervades the Service, meet from his brother-officers the same contempt and scorn which he would incur by showing cowardice in face of the enemy, these accusations against Lord Torrington seem to be sufficiently refuted, by observing, that if true, his guilt must have been shared, not by one or two, but by several British officers of acknowledged merit and unstained honour.

His acquittal however does not rest upon this. These charges were brought before the House of Commons, and referred to the investigation of a Select Committee, of which I will only say that its proceedings were of a very unusual character, and that it certainly spared no pains to obtain evidence criminatory of Lord Torrington. The inquiry was protracted during two Sessions, and was concluded by the Committee's agreeing to a very short Report, expressing no definite

opinion on the subject referred to them, but certainly giving no countenance to the charges they had inquired into. In 1851 the evidence was laid before the House; and at length, on the 31st of May, the whole subject was brought to the test of a discussion, by resolutions condemning the conduct of Lord Torrington and of the Government, being moved by the gentleman who had been chairman of the Select Committee. The resolutions were supported, as a party question, by the Opposition, the leaders of which did not think it unworthy of them to make use of such charges against an individual, for the purpose of injuring the Government; but there were many of those who were in the habit of voting with the Opposition, whose sense of honour and justice revolted against this mode of carrying on party warfare; and the resolutions were consequently rejected by a majority of no less than eighty, the debate having been even more triumphantly in our favour than the division.

After such a decision by the House of Commons, I consider it to be quite unnecessary to enter into any particulars as to these alleged cruelties. Instead of doing so, I think myself bound to express my firm conviction that, in cases of rebellion, the infliction of prompt and severe punishment on a small number of the most guilty, is the truest mercy. Armed resistance to the constituted Authorities of the State, on account of the wide-spreading calamities to which it leads, and of the amount of suffering it occasions, ought to be regarded as one of the most

heinous crimes of which men can be guilty. It is therefore a false and sickly humanity which would shrink from inflicting prompt and condign punishment on the leaders in the commission of such a crime, in order both to protect the thousands of innocent persons who must suffer from leaving it unchecked, and also to avert the necessity of inflicting more numerous punishments in the end, by preventing the contagion of rebellion from spreading among the deluded followers of those who begin it. Among a barbarous or semi-civilized people this is more especially necessary; and I am persuaded that any hesitation or want of vigour and firmness, in the circumstances in which Lord Torrington was placed, would probably have cost the lives of as many hundreds, possibly of as many thousands, as there were individuals capitally punished under his authority*.

I must add, that the Governors of distant Colonies, in times of rebellion, are placed in situations of so much difficulty and responsibility, that every generous mind will be disposed to put the best construction on their conduct, and to believe, till

* Major Forbes, in his 'Eleven Years in Ceylon,' states, that in the insurrection of 1818 the loss on our side (chiefly from climate and fatigue, as very few fell in action) was estimated at 1000, and on the side of the natives at 10,000. On that occasion there were above 6000 troops employed in the Kandian Provinces, and near 10,000 in Ceylon. The rebellion began in September, 1817, and was not subdued till the 2nd of November, 1818. In 1848 the force in these Provinces little exceeded 1500 men.

the contrary is clearly proved, that they have acted to the best of their judgement. Even if this consideration, and a sense of what is due to men on whom such arduous duties are imposed, is insufficient to restrain the disposition to carry on party warfare by such means, a regard for the safety of our Colonial Empire ought to prevent the repetition in future of such attacks as those which have been directed against Lord Torrington and Sir Henry Ward, for having performed a painful duty in putting down rebellion. Is it possible that the expectation of being exposed to this sort of obloquy should fail to exercise some influence over the mind of a Colonial Governor, called upon suddenly to act in the trying emergency of a rebellion threatened or begun? Must it not of necessity add to his difficulty in forming a correct judgement as to the course he ought to take? and would it be unnatural, that he should be induced to shrink from the prompt exercise of a necessary severity, by knowing that the very success of that severity in averting the danger is likely to be wrested into the means of injuring him? In my next Letter I shall have occasion to remark, that it is by no means certain that the interests of the Country may not already have felt elsewhere, some of the injurious effects which the attacks directed against Lord Torrington were calculated to produce.

In Ceylon these attacks, and the appointment of a Committee of the House of Commons to inquire into them, were productive both of injury to the Colony

and of embarrassment to the local Government. Even if the proceedings of the Committee had been conducted with the utmost judgement and discretion, an inquisitorial investigation, intended to support such serious charges against the Governor of a distant Colony, could not fail to impair his authority, and to interfere with his devoting his time and thoughts to the various measures of improvement, which were required and were contemplated, both in the legislation of Ceylon and in its system of administration. This inevitable inconvenience was far from being diminished, by the manner in which the inquiry was carried on by the Committee, and it was greatly aggravated by the publication, in the Colonial newspapers, of selections from parts of the evidence most hostile to Lord Torrington, notwithstanding the refusal of the House of Commons to allow the evidence to be published in its incomplete state at the end of the Session of 1849.

It would be superfluous to comment on the gross impropriety of furnishing the Colonial newspapers with the means of making this publication, or on the difficulties which, from the nature of Colonial society, it was calculated to throw in the way of the Governor. Nor can it be matter of surprise, though it is deeply to be regretted, that the inquiry, carried on as it was, should have created great irritation in the mind of Lord Torrington. This irritation was increased by circumstances connected with differences, of long standing, between two of

the principal civil servants of the Colony, in which the Governor became involved, and which were brought before the Committee. The subject is so painful a one, that I will not refer to it further than to say, that the disclosure of certain private and confidential letters, which were laid before the Committee, produced a state of things which seemed to render it impossible that Lord Torrington should continue to act with Sir Emerson Tennent and Mr. Wodehouse, (the two gentlemen to whom I have alluded,) with advantage to the public service in the situations which they respectively held in Ceylon; it was therefore considered expedient that they should all cease to be employed in that Island, and arrangements were made accordingly.

Lord Torrington left Ceylon in the beginning of November, 1850; but, previously to his departure, he received addresses from the leading merchants and planters, expressing in most gratifying terms their sense of the services he had rendered to the Colony, their approval of his policy, and their regret at his relinquishment of the Government of the Island*. This was a tribute to the ability and success of his administration, highly honourable to those from whom it proceeded, and which had been well earned by Lord Torrington. I have shown that he found Ceylon, on his arrival, in circumstances of the greatest difficulty; its finances were in a condition which was leading rapidly to bankruptcy, while its trade and industry

* See pp. 29—33 of Papers presented by Command, February 4, 1851.

were suffering from extreme depression. I have given a slight sketch of the measures which he promptly adopted to arrest these evils, and I have the satisfaction of being able to state that, though he held the Government somewhat less than three years and a half, when he gave it up, these measures had already produced a complete and most favourable change in the aspect of affairs.

The acting Governor, who administered the affairs of the Island until the arrival of Sir George Anderson, was able, on meeting the Legislative Council shortly after Lord Torrington's departure, to congratulate that body on what he termed "the remarkable, and of late years quite unprecedented, state of financial prosperity and promise" which the Papers he laid before the Council showed the Colony to have attained. There had been a surplus of revenue above expenditure of £10,000 in the half-year; a debt of £50,000 to the Oriental Bank, which it had been necessary to contract in the embarrassment of 1848, had been paid off, principal and interest, with the exception of about £11,000; the charges connected with the rebellion had all been provided for out of the local revenue; the expenditure of 1849 had been brought down no less than £78,000 below that of 1846, and in the first nine months of 1850 a further reduction of £16,000 was effected, exclusive of the Road department*. Nor

* See Lord Torrington's Speech in the House of Lords, and the Papers of February, 1851, p. 36.

was this reduction of expenditure accomplished at the cost of the efficiency with which the public service was carried on; on the contrary, every department of the Civil Administration was conducted with greater vigour and regularity than before.

The trade and industry of the Colony also felt the beneficial effects of the measures judiciously adopted by Lord Torrington (apparently not without considerable risk) for their relief. The prospects of the coffee-planters and cinnamon-growers had again become brighter when he left the Island, and have since continued to improve. The difficulties, in short, of 1847 and 1848 had been completely surmounted, and the Colony was fast rising to a prosperity which, having nothing artificial or unsound in its character, appeared likely to be more durable than that of 1845. I rejoice to say, that hitherto the expectations justified by the aspect of affairs on the retirement of Lord Torrington have not been disappointed, and Sir George Anderson, who succeeded him as Governor and has ably followed up the policy he began, has in his annual Report, dated April, 1852, expressed a favourable opinion of the condition of the Colony.

December 2nd, 1852.

LETTER XII.

CAPE OF GOOD HOPE.—NATAL.

My dear Lord John,

Of the Cape of Good Hope, which is to form the subject of this Letter, you will easily perceive that I must necessarily speak with much reserve. I shall be content to give an exceedingly imperfect account of its transactions, and to omit the mention of many circumstances and considerations which would tend to explain and justify some of our measures which have been the most severely criticized, in order that I may avoid reviving animosities which are, I hope, subsiding, or wounding feelings which I desire to respect.

At the time when your Administration was formed, accounts had not very long been received of the breaking out of a Kafir War; and almost as soon as I was installed in the Colonial Office, I was called upon to receive a deputation of Cape merchants and proprietors, who gave me a heart-rending account of the

devastation of a wide extent, of what had been the most flourishing districts in the Colony. They described to me the destruction of property to a vast amount, by which great numbers of persons had been reduced from comfort, and in some cases from wealth, to ruin, and the loss of no small number of valuable lives by the murder of unprotected Settlers; and they made most urgent representations of the necessity of taking immediate and effectual measures for the defence of the Colony. There was but too much ground for these representations; it appeared, from the despatches of the Governor, and from information received from various other quarters, that the attack upon the Colonists by their savage neighbours had been entirely unprovoked, and had been the cause of a fearful amount of misery. Our first measure therefore was to send additional troops to the Cape, with the least possible delay. We also thought it right to advise the Queen to appoint Sir Henry Pottinger to be Governor of the Cape, in place of Sir Peregrine Maitland. Without meaning to find any fault with the measures of the latter in the office he held, we were of opinion that the state of the Colony was one of so much danger and difficulty as to require the services of a Governor of the greatest ability and energy that could be found; and the fact that no less than fifty-four years had elapsed since Sir Peregrine Maitland had entered the Army, proves that he must have attained an age at which scarcely any man is equal to the exertions required from an officer

who has to conduct the active operations of such a war as we were engaged in*.

For these reasons Sir Henry Pottinger was appointed Governor of the Cape, to which was added the office of Her Majesty's High Commissioner for settling the affairs of the territories adjacent to the Colony.

* I think it right to take this opportunity of expressing my opinion of the very great danger to which the Country is exposed by the existing rules of our Army, by which in time of peace no officer can expect to attain the rank of major-general under the age of fifty, and the great majority must be considerably older before they do so. Thus the youngest major-general in our service is above the age at which it was the opinion of Napoleon that men generally ceased to be fit for active service in war (which, if I am not mistaken, he put at forty-five). I know that the highest military authorities are very averse to any departure from the existing rule, by which the rank of major-general is granted only to full colonels who rise to it (from that rank) by strict seniority, and I am also aware that these authorities are scarcely less averse to entrusting an important command to an officer before he becomes a major-general. But notwithstanding the professional objection which exists to any change of system, I am persuaded that it is imperatively demanded by the interest of the Country; that at present the field of selection for officers for important commands is unduly limited; and that many of these commands have of late years been held by officers who no longer possess the vigour and energy of body as well as of mind which are necessary in war. The great Lord Chatham did not allow professional etiquette to stand in the way of his entrusting the honour of the British arms to young and enterprising officers. Wolfe was a lieutenant-colonel of only seven years' standing, when, in preference to many of his seniors in that rank, he was made colonel by brevet, in October, 1757, and three months afterwards was appointed brigadier-general; and he only held a local commission as major-general in America, when he led the force which effected the conquest of Canada, and fell at the moment of victory, at the age of thirty-five, on the 13th of September, 1759.

As he was not in the military service of the Crown, but in that of the East India Company, the rules of the Army did not admit of his being invested with the military command of the troops employed there, which was conferred upon Sir George Berkeley.

Sir Henry Pottinger performed the duty entrusted to him most ably. While the military operations were prosecuted under the command of the General, the Governor kept the communications with the hostile Kafirs under his own immediate direction, and applied himself to the task of increasing and rendering as efficient as possible the irregular force, levied in the Colony to assist the regular troops; and at the same time he endeavoured to check the abuses which are so apt to arise, and which it is so difficult to prevent, when a force of the former description is suddenly called for in time of danger. Such abuses had prevailed largely at the Cape, but Sir Henry Pottinger dealt with them in a vigorous and determined manner. He also perceived, and was bent upon correcting, the vices of the system on which the Hottentot settlements on the Kat River and other places had been formed, —a system the deplorable results of which have been experienced in the present war.

The war, which was supposed to have been finished when Sir Henry Pottinger reached the Colony, did not prove really to have been so; there was merely one of those delusive intervals of comparative quiet, which are so common in wars with barbarous tribes: the contest soon broke out again, and was not entirely

concluded until the month of December, 1847. In the meantime Sir Henry Pottinger (who had only accepted the Government of the Cape, on the express understanding that his doing so was not to interfere with his prospects in India) had been appointed Governor of Madras, and Sir Harry Smith was selected to succeed him at the Cape. When the latter reached the Colony, the war had been virtually terminated by the unconditional surrender of the Chief Sandilli, and it was soon completely finished by that of Pato. It was one of the first acts of the new Governor to release the former, thus extending to him a clemency of which he has since shown himself very little deserving.

The war being thus concluded, it devolved upon Sir Harry Smith to act upon the instructions which had been originally given to Sir Henry Pottinger, and were renewed to himself, as to the policy which should be adopted, in order to prevent, if possible, a recurrence of the calamity which had just been experienced. The substance of these instructions was, that experience having demonstrated the futility of treaties with the Kafirs, no more were to be made; but that, as the only mode of providing for the future security of the Colony, the tribes inhabiting the district between the Keiskamma and the Kei, who had made so unprovoked a war upon the Colonists, must be deprived of their political independence, and the territory taken possession of on behalf of the Crown. It was not to be annexed to the Cape Colony (which would imply extending over it the authority of the Colonial laws,

which are utterly unsuited to such a state of society), but was to be governed by British military officers, with the assistance of the Chiefs themselves, whose authority was to be supported as far as possible. For the maintenance of British power a few commanding posts were to be garrisoned; and it was suggested that Kafir troops should be enrolled under European officers, and employed in the western districts of the Colony, where they would serve both as hostages for the good conduct of their relations, and, by relieving the Hottentot regiments, would set the latter free from service in Kafraria. Security for person and property being thus maintained, every endeavour was to be made, with the assistance of the Missionaries, to diffuse a knowledge of religion and the arts of civilized life. As soon as the new system of government was organized, means were to be taken for raising a revenue in the territory, sufficient to defray the very moderate expenses of the kind of government which was contemplated. It was pointed out, that it was right to call upon the Kafirs to provide for the expense of their own government, not only for the purpose of preventing Kafraria from being a burden either on this Country or on the Cape, but also because this demand upon them would act as a stimulus to industry.

The above is a short summary of the most important instructions contained in a Despatch in which our views were very fully explained*. It will be seen

* See page 1 of Papers relating to the Kafir Tribes, presented to Parliament in February, 1848; see also the Despatch to Sir Harry

that the principle on which we proposed to act was that of endeavouring to protect the Colonists from the depredations and constantly recurring wars with their savage neighbours, by civilizing and reclaiming the Kafir tribes. There was no reason to regard this object as unattainable. The first step towards it must be the maintenance of order, and security for persons and property, which it was conceived might be accomplished by the establishment of military posts, and the appointment of British officers authorized to administer justice both to Kafirs and Colonists, and to enforce the prompt punishment of all wrongs which either might inflict on the other. If this first step could be attained, and a sense of security created in Kafraria, it was not doubted that trade, with its civilizing influences, would quickly spring up, and that the Kafirs would gradually acquire the tastes and habits of the Europeans with whom they would be brought in contact; while, by the efforts of the Missionaries and the measures of the Government, instruction in religion and in the knowledge and arts of civilized life would be diffused, so that the rising generation would grow up with a very different character from that of their parents. In accordance with these views, and with the instructions he had received, the Governor, by a Proclamation dated the 23rd of December, 1847*,

Smith, of December 10, 1847, in which, with reference to Natal, the general system of governing barbarous tribes is more fully entered into. (Papers relating to Natal, presented July, 1848, p. 137.)

* See Papers of July, 1848, pp. 24, 39.

declared that the territory between the Keiskamma and the Kei was taken possession of on behalf of the Crown, by the name of British Kafraria, and he immediately proceeded to organize the government of the district on the principles I have described. Some additional territory was also included within the boundaries of the Colony.

The policy thus adopted was, in fact, precisely the same as that which has been followed with so much success in New Zealand; and although no doubt there are some important points of difference in the character of the natives of New Zealand and of the Kafirs, yet, in the main, human nature is everywhere the same, and the latter are far less completely barbarous than the former were forty or fifty years ago, since they are a pastoral, and to a considerable extent also an agricultural people, and have never, so far as I am aware, been addicted to cannibalism, which prevailed so extensively among the New Zealanders. It is the same policy which has also been successfully pursued with some of the wild predatory tribes of India, of which an interesting account will be found in the evidence of Colonel Ovans, before the Committee of the House of Commons on the Kafir tribes in 1851. This policy is likewise supported by the concurrent opinion of Sir Benjamin D'Urban, Sir George Napier, Sir Henry Pottinger, and Sir Harry Smith, who have all expressed their conviction that there is no other, by which the inhabitants of the Colony can be effectually protected. The opinion of all these Officers, from

,, their great ability and experience, is entitled to the highest consideration; and it is particularly worthy of remark, that Sir George Napier states that, when he assumed the Government of the Cape, he held a different opinion, and considered Sir Benjamin D'Urban to have taken an erroneous view of the subject, but that experience convinced him that he had himself been mistaken, and that Sir Benjamin D'Urban had been right*.

For nearly three years the policy thus adopted appeared to have been attended with the most gratifying success. In the papers laid before Parliament, there will be found a series of Reports on the state of British Kafraria, under the system of administration

* See the evidence of Sir George Napier before the Committee of 1851 on the Kafir tribes. See also Sir Henry Pottinger's despatches in the Papers presented to Parliament in February, 1848, and especially his letter to Sir George Berkeley of the 27th of March, 1847, enclosed in his despatch No. 37, of the 14th of April, 1847. In that letter (p. 73) he says:—"Beyond the Buffalo, as far as the Kei, I intend to place the whole country under the protection of the Queen of England, under the name of British Kafraria. In that tract all the Kafir chiefs and tribes would reside, who chose to place themselves under Her Majesty's protection. They would be allowed to retain whatever may be found good and desirable of their own laws and customs, whilst all objectionable portions would be peremptorily abolished, and British political agents would be appointed to reside amongst them, to assist the chiefs in administering justice and settling disputes; to guide and aid the whole mass of the population in its slow (but it is to be hoped eventual) progress towards civilization; and to narrowly watch the proceedings of each chief and tribe, so that if any might be disposed to break the peace or disturb the desired tranquillity, they should be at the instant seized, or, if necessary, attacked and crushed."

which had been adopted, all showing that, up to the close of 1850, improvement was going on as steadily and rapidly as could possibly have been expected, while the frontier Colonists were in the enjoyment of a security and an exemption from plunder which they had never before known. There were, in short, the strongest grounds for hoping that, if this state of things could be maintained but for a very few years longer, the peace of the Colony might be considered as having been permanently and securely established. Unfortunately these hopes were dashed to the ground, by the unlooked-for and calamitous war which again broke out in the month of December, 1850. Before however I proceed to speak of that most unfortunate event, there are some occurrences of an earlier date which I must notice.

As soon as Sir Harry Smith had taken the measures which were immediately required on the termination of the war, for settling the affairs of Kafraria, his attention was called to the condition of the northern frontier and to the settlement of Natal, and he undertook a toilsome journey beyond the Orange River and thence to Natal. In February, 1848, he reported the result of his personal examination of the territory north of the Orange River. He described it as being occupied by a large number of emigrant farmers from the Cape, who were living in the midst of various native tribes, and were suffering much from the want of any settled government and of the security which such a government could alone afford. He stated that these

people were so sensible of the evils arising from this state of things, that they were most anxious for the regular establishment among them of British authority, which had already been virtually extended over this district by the treaties and arrangements made by Sir Peregrine Maitland in 1845. This feeling was, he said, shared by the native Chiefs, who felt that, from their mutual jealousies and the position in which they were placed, with respect to the persons of European race who had settled among them, nothing but the establishment of the paramount power of the British Crown could maintain peace and good order in the country. In these circumstances Sir Harry Smith reported, that he had thought it necessary to proclaim the sovereignty of the Queen, over the territory between the Orange and Vaal Rivers, explaining that his object in doing so was only to exercise so much authority, as might be necessary to preserve peace among the inhabitants of various races and among the different tribes, and to enable the natives and the emigrant farmers respectively to manage their own affairs*.

The answer returned to the Despatch in which the Governor reported the course he had taken, referred him to previous declarations of the determination of Her Majesty's Government, to encourage no extension of the British dominions in Africa; but it proceeded to express a sense of the importance of allowing a free development of his plans, and a readiness to believe,

* See Sir H. Smith's Despatch of Feb. 3, 1848, in the Papers relating to the Kafir tribes presented to Parliament in July, 1848, p. 59.

on his authority, the necessity of departing from our general line of policy in this instance, by the establishment of British supremacy in the territory in question. He was told that "the tendency of these measures [those he had reported his having adopted], if duly executed, will be to give somewhat more regularity and greater strength to that rude system of government which has grown up of itself among these people from the necessity of their position, and to provide them the assistance which they really require, for the purpose chiefly of settling their disputes among themselves, by the interposition of an authority to which all the different races of men, whom circumstances have brought into such singular relations with each other, look up with respect. But it is essential that the management of their own concerns, with the duty of providing for their defence, and for the payment of the expense of that system of government which is established among them, should be thrown entirely on the emigrant Boers and the native tribes among whom they are settled."

With these views, and on these conditions, the Governor was informed that we should be prepared to sanction the assumption of this territory, when we should have ascertained, what should be the proper steps to take, in order to give legal validity to his proceedings, and when he should have supplied some further information which was called for*.

* See Despatch to Sir Harry Smith of June 21, 1848, p. 67 of the above Papers.

In the August following the proclamation of sovereignty, some of the Boers revolted, but the Governor promptly assembled a small force on the Orange River, made himself an exceedingly rapid journey from Cape Town to meet it, and after a sharp skirmish put an end to this revolt, compelling those who had been engaged in it to defray the expense incurred in its suppression, by fines which he imposed upon them. Subsequently, when the information called for from the Governor had been obtained, Her Majesty was advised to refer the consideration of the measures which should be adopted with reference to the Orange River Sovereignty to the Board of Trade. As some legal questions of great nicety arose upon the subject, much advantage was derived from having it considered by this Committee of the Privy Council, to which, as I have mentioned in a former Letter, Lord Campbell, Sir Edward Ryan, and Sir James Stephen had been added, for the purpose of enabling it the better to deal with Colonial questions which might be referred to it by Her Majesty. The Committee finally agreed upon a Report, which was laid before the Queen in Council and approved, in which the grounds for permitting British authority to be established in the Orange River Sovereignty, and the steps which ought to be taken for that purpose, are fully explained; it will be found among the Papers relating to the assumption of sovereignty over the territory in question, which were presented to Parliament on the 17th of May, 1851.

In the year 1849 the Cape of Good Hope was greatly disturbed by the resistance made by the Colonists to the reception of some convicts who had been sent there. The excitement which this affair created was very great, and I think the surest way of avoiding any error in giving an account of it, will be to quote three Despatches which were laid before Parliament*, explaining the course that had been pursued. I will only premise that, when the first of these Despatches was written, though no report of what had occurred had been received from the Governor, intelligence had reached me from other quarters that so violent a resistance had been made by the Colonists to the landing of a body of convicts, sent from Bermuda under the circumstances detailed in my Despatch, that the Governor had thought it necessary to yield to it, and had detained these men on board the vessel which brought them, until he could receive the instructions of Her Majesty's Government. In resisting the reception of the convicts from Bermuda, the Colonists had raised an equally violent outcry against orders which had been issued for sending military convicts from certain places to the Cape, as if this formed part of the same arrangement, though in truth it was a perfectly distinct measure, which it became necessary to explain in the second of the following Despatches, which I insert entire.

* See Papers relative to the reception of convicts at the Cape of Good Hope, presented to Parliament by Command, January 31, 1850.

Earl Grey to Governor Sir Harry Smith, Bart.

"*Downing Street, November* 30, 1849.

"SIR,

"I have hitherto deferred replying to your despatches, No. 106, of the 29th of June, and No. 123, of the 24th of July, which reached me nearly together in the middle of the month of September, because I had every reason to believe that they must be almost immediately followed by further despatches from you, which might probably convey to me intelligence of a considerable change in the aspect of affairs in the Colony. My despatch of the 18th of April, announcing the determination of Her Majesty's Government to abstain from sending any more convicts to the Cape, which might have been expected to reach you even earlier than the date at which you wrote, and could hardly fail to do so very soon afterwards, was calculated, as I trusted, to calm the excitement which had been created; while I hoped that a similar effect would be produced, when it was found, on the arrival of the expected ship with convicts from Bermuda (which had been heard of at Pernambuco, as having reached that port, and again proceeded on her voyage), that the convicts so sent, who were not to be followed by any more, were of a very different description from the criminals usually sent to a penal Colony. Hence, believing that a very short delay would be occasioned by waiting for further intelligence from you, I considered it better to incur this delay, than to send you immediate instructions, which that intelligence might show to be no longer well adapted to an altered state of affairs.

"But I now find, by the usual list you have forwarded of despatches received by you, that mine of the 18th of April, though it has not been answered, had reached you

some time before the date of the last advices. I learn also, from the newspapers published in the Colony, that the Neptune, with the convicts from Bermuda, had arrived, but that the convicts on board had not been permitted to land, being detained on board in Simon's Bay, as it is stated, till further instructions are received from myself; and that the excitement which has been created, far from having subsided, had appeared greatly to have increased. I am further informed, by a communication I have received from the Admiralty, of the attempt which had been made to prevent any description of supplies from being furnished for Her Majesty's service, naval, military, or civil, with the view of enforcing the departure of the Neptune, with the convicts; but though I have despatches from you on other subjects up to five days after the arrival of the Neptune, I have none containing any information of the arrival of the Neptune, as to what had then occurred on this subject, or as to the measures which you might have in contemplation. In these circumstances I can no longer postpone transmitting to you instructions for your guidance: and in doing so it will be necessary that I should, in the first place, briefly review the past course of proceedings upon this subject, and explain what have been the grounds on which Her Majesty's Government have acted in the various measures which have been adopted.

"I need hardly remind you, that in the circular despatch which I addressed to the Governors of different Colonies to which it appeared to me that convicts, when they became entitled to tickets-of-leave, might be sent with advantage, I did not contemplate that this measure should be adopted with respect to Colonies which had not originally been established as Penal Colonies, and in which it should appear that the inhabitants were opposed to it. But about the

time when this circular was written, a very serious difficulty arose as to the disposal of certain Irish convicts, who had been transported to Bermuda, for offences committed during the pressure of the famine in Ireland occasioned by the failure of the potatoes. It was of urgent importance to remove some of these men from Bermuda, as it was found that they were entirely unsuited to undergo the discipline and labour which are there enforced. It was necessary therefore that they should be removed; but at that time the state of things was such in Van Diemen's Land, from the very large number of convicts who had been sent there in the years preceding 1846, that there was no prospect that if sent to that Colony with tickets-of-leave, they would have been able to find employment, and to maintain themselves by their labour.

"It was also highly desirable, considering the character of these convicts, that they should not be placed where they would be forced to mix with ordinary criminals. These men were in general peasants, who, under the pressure of extreme want, had committed depredations, which, though they could not be passed over without punishment, yet implied comparatively little moral degradation. This circumstance of their being of so different a class from ordinary criminals, while it afforded a strong reason against sending them to a Colony where they could mix with the latter, seemed also to remove all just grounds for objecting to their reception in the Colonies to which convicts are not usually sent. I remembered that the agricultural labourers who were transported to New South Wales at the beginning of 1831, for the riots of the previous winter, had proved a most valuable accession to the labouring population of that Colony, and I believed that the Irish convicts who had in like manner been betrayed by special circumstances into

crimes which they had not been in the habit of committing, or had been convicted of political or agrarian offences, which out of Ireland they would have no temptation to repeat, might be removed to a Colony where there exists a great want of labour, and where they would not be exposed to the influence of bad associates, with great advantage, not only themselves, but to the Colony; and I did not conceive it to be possible that, even if the inhabitants of the Cape should entertain a fixed objection to the reception of convicts of an ordinary description and as a general practice, there could be any such objection to receiving, in that vast territory, between two and three hundred convicts of this peculiar description, when Her Majesty's Government would thus be relieved from a difficulty of a very serious kind.

"Under this impression, I recommended that the convicts in question (to whom were afterwards added some others specially recommended for indulgence, on account of their peculiar good conduct, or length of detention without committing any fault) should be removed to the Cape, without waiting till your answer to my circular despatch could be received, believing that in doing so I was not departing in any degree from the spirit of that circular, which referred to the adoption of a permanent system. The letter indeed in which I informed you of the special measure intended to meet the immediate emergency, bore the same date as the circular, and was forwarded by the same opportunity. With the information now before me, I greatly lament that this step should have been taken. Had I been aware how strong was the feeling which existed at the Cape on this subject, I should not have advised the measure which was adopted; but I confess I fell into the error of supposing that, whatever might be the objection felt to receiving con-

victs as an ordinary practice (an objection which I readily admit to be founded on feelings that are entitled to respect), there would still be amongst the inhabitants of the Cape so much regard for the general interest of the British Nation, to which they had just been indebted for such truly generous assistance, and also so much of common humanity towards the unfortunate men as to whom the difficulty had arisen, that it might safely be calculated that they at least would be received without opposition. This is an error which I acknowledge, and which I greatly lament.

"In the meantime, long after the orders for the removal of these convicts from Bermuda to the Cape had been given, I received from you the first intimation of the very strong feeling which existed on this subject amongst the inhabitants of the Cape. I received this intelligence with much regret, believing, as I still believe, that in refusing to receive, in very moderate numbers, convicts whose conduct under a preliminary system of punishment has been such as to entitle them to the indulgence of tickets-of-leave, and whose best chance of being reformed consists in their being dispersed as widely as possible, the inhabitants of the Cape were declining the share of the common burdens of the Empire, which they might fairly be called upon to undertake. Still, when the strength of the feeling which existed was fully understood, no time was lost by Her Majesty's Government in making a public announcement in the House of Commons, that no more convicts would be sent to that Colony; and in my despatch of April the 18th I formally communicated to you this determination. At this time however there was nothing in the information which had reached me, which led me at all to suppose that this determination to abandon the general plan of sending convicts holding tickets-of-leave to the Cape, would not be

sufficient to calm the excitement which had been created, or that so violent an opposition would be made to the reception of the comparatively small number who were already on their way thither. Till a much later period I had every reason to entertain this opinion. Your despatch of the 24th of May, which reached me on the 13th of August, was directed entirely against the proposal so inaccurately described as one for making the Cape a penal Colony; and indeed implied (so at least I understood it) that there would be by no means the same sort of objection in your opinion to sending to the Cape with tickets-of-leave (as a special measure, and one not to be repeated) the particular convicts who had been actually sent there. Accordingly I answered these despatches by referring you to that in which I had announced the determination of Her Majesty's Government to defer to the wishes expressed by the Colonists, by abstaining from sending any more convicts, and I fully believed that the instructions I had transmitted to you on the 2nd of July would suffice for your guidance as to the Bermuda convicts.

"Your despatch of the 29th of June, which was received in this office on the 14th of September, contained the first intimation which reached me of the violence of the opposition which was likely to be made to the reception of even the convicts sent in the Neptune; and this despatch showed that at its date you still contemplated receiving these convicts on shore, and providing for their reception until further instructions could be received, apparently without anticipating any difficulty in doing so. Three days later, that is, on the 17th of September, your despatch of the 24th of July, No. 123, was received, from which I learnt to what a height the excitement had risen; and that, in consequence of the extraordinary proceedings which had

taken place, you had most unadvisedly, as I think, publicly announced your determination not to permit the landing of the convicts hourly expected by the Neptune.

"I have already stated that I did not immediately answer this despatch, because I was in daily expectation that I should receive from you further intelligence, which might materially alter the nature of the instructions it might be proper to give. But, further, I considered it to be quite impossible that any instructions which could be then transmitted to you, could be of any assistance to you in meeting the immediate difficulty of disposing of the Bermuda convicts. They had for three or four weeks been hourly expected to arrive at the Cape, when you wrote to me (two months before) the despatch I had just received. When they left Bermuda, these men had already suffered in health from confinement in the hulks; and it was known that when they were at Pernambuco, though their health had improved, the ship was still sickly. I knew that it must also have been obvious to you, from my despatch of the 2nd July (which was likely to reach you as soon as yours of the 24th of the same month had come into my hands), that when that despatch was written I entertained no doubt that the convicts would be landed; and you must have known that in your own correspondence, up to the time of your writing the despatch of the 24th of July, there was nothing which could lead me to form a different opinion, or to call for additional instructions. Hence I concluded that when this vessel arrived, and when you learned, as you were sure to do from the commander and from the surgeon, the condition of those on board, it must have been utterly impossible that you could fail to adopt some course or other for the immediate relief of these unfortunate men.

Hence I regarded it as highly inexpedient that I should send out instructions as to the disposal of these convicts, when it appeared certain that those instructions must arrive far too late for your guidance, and might probably be at variance with the determination which in the emergency you had adopted, and of which I should, probably in a few days, be apprised.

"It did not even occur to me as possible that you could take the course of detaining these people on board the Neptune until you could receive further instructions, since this would involve the probability of their being so detained for nearly four months, the shortest time in which you could calculate on an answer to your despatch. I felt the more confident that, in one way or another, the question as to how these persons were in the first instance to be disposed of, must have been determined long before you could hear from me, because I could not believe that, however strong might be the feeling of the Colonists against the Government for the measures which had been adopted, they would visit those measures on the heads of these unfortunate men, whose lives might be endangered by such protracted confinement.

"After this brief review of what has taken place, reserving for another despatch all that relates to military convicts, I now proceed to give you the instructions which it appears are still necessary as to the manner in which the convicts on board the Neptune are to be disposed of. You will take measures for sending them to Van Diemen's Land as soon you receive from me the necessary powers, which will be forwarded to you by the earliest opportunity; and you will at the same time inform them that, in consideration of what they have undergone, and of the disappointment of the expectations they were encouraged to

entertain when they left Bermuda, Her Majesty will be advised to grant conditional pardons on their arrival in Van Diemen's Land, to those who shall not by misconduct have disqualified themselves for that indulgence. The case of the prisoner Mitchell, which is quite distinct from that of all the others, is reserved for separate consideration, and instructions will be sent respecting him to the Lieutenant-Governor of Van Diemen's Land.

"I have only further to add, for your information, that Her Majesty will be advised immediately to revoke the Order in Council by which the sending of convicts to the Cape is rendered legal. I forbear to express my opinion either on the extraordinary proceedings of the inhabitants of the Cape, or upon your own conduct: on the former, because I am unwilling to use the terms which would alone adequately describe what I think of their proceedings; on your own conduct, because I have not yet received your explanation of the grounds upon which you acted, and because I should be unwilling to pass any judgement, prematurely, upon your course in circumstances of undoubtedly great and unprecedented difficulty.

"You will publish this and my other Despatch, No. 39, Military, of this date, in the Gazette, for the information of the inhabitants of the Cape.

"I have, etc.,

"*Lieut.-Gen. Sir H. G. Smith, Bt.,* (Signed) GREY.
"*etc., etc., etc.*"

Earl Grey to Governor Sir Harry G. Smith, Bart.

"*Downing-street, November* 30, 1849.

"SIR,—

"I have received your despatch of the 12th June, marked 'Military, separate,' which I have read with con-

siderable surprise, as it seems to imply a forgetfulness of what has already passed on this subject, which I find it difficult to account for. I have to remind you, that the arrangement for sending military convicts, immediately on receiving sentence, to the convict establishment at the Cape, is one totally distinct from, and having different objects from, that which was proposed with respect to sending ordinary convicts to the same Colony with tickets-of-leave. It was intended that the latter should become absorbed in the general population of the Colony, and they were to be sent by the authority of an Order in Council which, in another despatch of this date, I have informed you that Her Majesty will be advised to revoke, and which made the Cape one of the places to which offenders sentenced to transportation might be sent.

"Soldiers sentenced to transportation are, on the contrary, sent under the authority of the Mutiny Act, and are placed on their arrival in the existing penal establishment of the Cape of Good Hope, where the whole cost of their maintenance is defrayed by this Country, and where they are kept quite apart from the population. It was considered expedient to send soldiers, sentenced by Courts-martial, from certain stations to the Cape (as from others they are sent home or to Van Diemen's Land), partly because this was the most convenient arrangement with a view to existing means of communication, partly because it is of importance that military convicts should be as much as possible divided, and not sent in large numbers to any one place.

"I have further to remind you, that the arrangement for sending soldiers to the Cape has not been recently introduced. My despatch stating that military convicts were to be sent there from the Mauritius, was dated so long

ago as the 10th September, 1847; and on the 28th September, 1848, the same arrangement, you were informed, would be adopted with regard to soldiers sentenced by Court-martial in Hongkong. Both these despatches were received and acknowledged without even a hint that there could be any objection to the arrangement.

"Nor is this all. Throughout the correspondence which has taken place, the opinion has been expressed by yourself, as well as by preceding Governors of the Cape, that there existed no objection on the part of the inhabitants to the employment of convicts there so long as they were kept in custody. I have to refer you to Sir Peregrine Maitland's Despatches of the 10th and 23rd of September, 1846*, and to your own of the 8th of May, 1848†, in which you suggested that no fewer than 600 convicts should be sent to the Colony, to be employed in the construction of a breakwater.

"It is true that in these despatches the ultimate removal of the convicts from the Cape was contemplated; but there is nothing in the order for sending military convicts for punishment to the Cape, which prevents their being also removed when their sentences approach completion. Indeed, on referring to my despatch of the 10th of September‡, you will perceive that their removal before the termination of their punishment was what was originally intended; and if the object of your despatch of the 12th of June had been to claim, on the part of the Colonists, that this should be the course pursued, there would have been no difficulty in complying with it. In the meantime no inconvenience could possibly arise from receiving and re-

* Pages 16 and 17 of House of Commons Papers: Cape Transportation, No. 217, 1849.

† Ibid., p. 19.

‡ Ibid., page 38.

taining them in custody in the convict establishment at the Cape. By the Report which I have just received on the convict establishment of the Colony (in your despatch, No. 167*, of the 6th of September last), it appears that it is quite equal to receiving for punishment the moderate number of military convicts likely to be sent under the orders now in force.

"You will perceive from the enclosed return, which I have obtained from the Adjutant-General's Office, that the number to be so sent in the year would not, according to the average of the last five years, exceed twenty-five. I have not therefore thought it necessary to revoke the instructions which have been given for sending soldiers sentenced for military offences to transportation to the Cape from certain stations. But an arrangement will be made, on which you shall receive further instructions hereafter, for removing these men, when they become entitled to their release from punishment, to some other place; and I have also to authorize you, if you should find that there is likely to be opposition to the reception of military convicts even on these terms, to forward to this Country any who may arrive at the Cape.

"Though such opposition would be entirely inconsistent with all that has till now been said on the part of the Colonists, and though it would be no less unreasonable that they should expect the protection of the British army, and refuse to afford the smallest assistance towards an arrangement which has in view the maintenance of the discipline of that army, Her Majesty's Government do not think that the object of disposing of so small a number of convicts is

* See Papers relative to the Employment on Roads of Colonial Convicts at the Cape.

of sufficient importance to make it worth while to insist on the point.

"I have, etc.,

"*Lieut.-Gen. Sir H. G. Smith, Bt.,* (Signed) GREY.
"*etc., etc., etc.*"

Enclosure.

"Return of the Number of European Soldiers belonging to Her Majesty's Army who have been transported in each of the last Five Years from the East Indies, the Mauritius, Ceylon, and Hongkong, specifying, so far as practicable, the place to which they were transported.

STATIONS.	Number of Men Transported.					Total.
	1844.	1845.	1846.	1847.	1848.	
East Indies . .	28	15	17	49	13	122
Mauritius . . .	5	...	...	...	...	5
Ceylon	...	...	...	...	...	...
Hongkong . .	1	...	...	...	...	1
Total . . .	34	15	17	49	13	128

"NOTE.—There are no records in the Adjutant-General's Office which furnish the information required as to the places to which these men were transported.

"*Adjutant-General's Office,* (Signed) J. MACDONALD,
"*October* 30, 1849. *Adjutant-General.*"

Earl Grey to Governor Sir Harry G. Smith, Bart.

"*Downing-street, December* 5, 1849.

"SIR,

"I have to acknowledge the receipt of your despatch No. 185, of the 30th of September last, reporting the arrival of the Neptune with the convicts shipped in that

vessel at Bermuda. This despatch, with the able minute of the Executive Council which it encloses, affords an explanation, which I am happy to inform you has appeared to Her Majesty's Government to be satisfactory, as to the reasons by which you were guided in the decision to which you came respecting the disposal of this party of convicts; and I have to signify to you Her Majesty's approval of the course which you felt it necessary to adopt. It is gratifying to me to be able to convey to you this announcement, for I am very sensible of the trying and anxious nature of the position in which, by the violent proceedings adopted at the Cape, you have found yourself placed.

"I have also to express my approval of the manner in which, in your published communication to the Chairman of the Public Meeting held at Cape Town, you pointed out to the Colonists the dangerous tendency of the course on which they had entered, and the objectionable nature of the principles which it involved.

"Her Majesty's Government have learned with great regret the decease of Mr. Deas, the surgeon-superintendent of the convicts by the Neptune. It is indeed to be deplored, that after having won the confidence and gratitude of the unfortunate men entrusted to his care, and also earned the approval of your inspecting officer for the manner in which he brought them out, this meritorious officer should, almost at the moment of arrival, have fallen a victim to the feelings of pain and surprise occasioned by the refusal of the inhabitants of the Cape to allow his people the refreshments indispensable to the preservation of their health.

"I have, etc.,

"(Signed) GREY.

"*Lieut.-Gen. Sir H. G. Smith, Bt.,*

"*etc., etc., etc.*"

Having quoted these Despatches, which state the facts, I forbear from describing the violent proceedings adopted on this occasion by the party which took the lead in opposing the admission of these convicts into the Colony. I was obliged to enter fully into this subject in the House of Lords* (where none even of the Peers in opposition to your Government said a word in excuse of the conduct of the persons to whom I refer), and I do not wish again to enter upon what must be an irritating topic. I will only say, that I think the authors of the resistance to the Government must now repent their own success. If their measures did not greatly contribute (as I firmly believe they did) to bring upon the Colony the calamity of another Kafir war, at all events there can be no doubt that when that war broke out, it would have been well for the frontier farmers if these 250 convicts had been distributed among them as servants (as would have been the case had they been landed), instead of an equal number of the Kafir servants, who immediately deserted and, it is believed, in some cases betrayed them to the enemy. It was one of the considerations which led to sending this body of convicts to the Colony, that such an increase in the number of European servants employed by the Settlers would have contributed not a little to their advantage and security.

Another subject, which during the last three years has given rise to much angry discussion at the Cape,

* See Hansard, vol. cxvii.

is the question as to the grant of Representative Institutions to the Colony. So long since as the year 1842, a petition from the inhabitants of Cape Town, praying for a Representative Assembly, had been transmitted to Lord Derby, who was then Secretary of State, by Sir George Napier, the Governor, who recommended a compliance with the wishes of the petitioners. Lord Derby, without absolutely rejecting this application, pointed out the many and serious difficulties which stood in the way of the satisfactory establishment of representative institutions in this Colony, in consequence of its state of society and peculiar local circumstances; and he desired the Governor to report his opinion as to the means which could be most advantageously adopted for surmounting these difficulties, if he continued to think that the change in the form of government he had recommended ought to be accomplished.

When we came into office, I found that there was still a strong desire on the part of the Colonists for a Representative Government, and that no answer had been received to Lord Derby's despatch*. to which I have referred. Accordingly, when Sir Henry Pottinger was appointed Governor, his attention was called to the subject, and he was directed to report upon it. He did not hold the office of Governor long enough to act upon these instructions, to which of course he

* This Despatch will be found in the Papers relative to the Establishment of Representative Government at the Cape of Good Hope, presented by Command, February 5, 1850, p. 89.

was not expected to attend, while the war which he found in progress should be going on. When the war was at an end, and the most pressing of the subjects which afterwards required the Governor's attention had been disposed of, Sir Harry Smith applied himself, with the assistance of his Executive Council and the Judges, to the consideration of the important and difficult question on which a report had been called for.

The result of this deliberation was, that Sir Harry Smith, in a despatch dated the 29th of July, 1848*, expressed his strong opinion, confirmed by that of all the gentlemen he had consulted, that the time was come when Representative Institutions ought to be extended to the Colony. The difficulties and dangers of the change were not concealed in some of the very able Minutes drawn up by his advisers and enclosed in his Despatch; but although the experiment was admitted to be a bold one, there was a general concurrence of opinion that it was one which must be made. When this Despatch and its enclosures were received, we took some time to consider the subject, which appeared to us full of difficulty; but we finally came to the conclusion that the advice of the Governor must be followed. Indeed it was scarcely possible to do otherwise, as we learned that the wish of the Colonists for a change in the form of their government was so strong, that Sir Harry Smith had

* See page 3 of the above Papers.

considered it necessary to endeavour to allay the excitement which had been created by publicly stating, in answer to one of the addresses presented to him on the subject, that he had reported to Her Majesty's Government his opinion that the desired change ought to be conceded, and might be so without inconvenience.

The publication of this answer in the Colonial newspapers, together with the feeling which previously existed, would have rendered it hardly practicable to refuse what was asked, even if the objections to granting it had appeared stronger than they actually did. Accordingly Sir Harry Smith was informed that Her Majesty's Government had come to the conclusion, that a Representative Constitution must be granted to the Cape, but that the precise mode in which it was to be framed would require much consideration. In order to arrive at a satisfactory decision on this point, the same course was adopted which in a former Letter I have mentioned as having been followed with regard to the Australian Colonies, and the subject was referred to the Committee of Privy Council for Trade and Foreign Plantations.

A Report was made by this Committee, explaining the manner in which they advised, that the promise to grant representative institutions to the Cape should be fulfilled; and this Report having been approved by Her Majesty in Council, on the 30th of January, 1850, the necessary steps were taken to give effect to its

recommendations. The Committee of Council recommended* that the leading provisions of the proposed Constitution should be embodied in Letters Patent, empowering the Governor to summon the Parliament, which was to be created as soon as the necessary arrangements for that purpose should be completed, and authorizing him, with the assistance of the existing Legislative Council, to settle by an ordinance (which was not to take effect until it had been approved, and, if necessary, amended by Her Majesty in Council) all those matters on which it was impossible to come to a satisfactory conclusion, without more minute local information than was accessible in England. The number of Members of which each Legislative body should consist, the franchise of the electors by whom they were to be returned, and the mode of dividing the Colony into districts for the purpose of the elections, were the most important points left to the decision of the existing Legislature. The powers of that Legislature were to be continued, and it was to perform its usual functions, until the writs for the election of the first Parliament for the Colony should issue.

Although the Anti-Convict agitation had occurred while this matter was under deliberation, and it was felt that the effects of this agitation must add materially to the difficulties, which were at all events to have been anticipated, in bringing the new form of

* The Report of the Committee will be found at length in the Appendix (C) to this Volume.

Government into operation, what had taken place was not held to afford any sufficient reason against proceeding with the intended change. Accordingly, on the 31st of January, 1850, the Order in Council approving the Report of the Committee was transmitted to Sir Harry Smith, in a Despatch, directing him immediately to collect the requisite information, and to make the necessary preparations for submitting to the Legislative Council the ordinances it would be called upon to pass, as soon as the Letters Patent, giving it authority to do so, should reach him. These Letters Patent were forwarded to the Governor on the 29th of May following.

When the Despatch of the 31st of January, 1850, was received by Sir Harry Smith, he found that the first step it was necessary for him to take, was to complete the Legislative Council, which had remained in abeyance since the resignation of some of its members, during the agitation on the subject of the convicts who had reached the Colony. For the purpose of filling up the Legislative Council, the Governor issued a public notice on the 6th of May, 1850, calling upon the various Municipalities and District Road Boards, to furnish him with lists of five persons whom they might think proper to recommend for the appointment of Legislative Councillors, expressing his intention of filling up the vacancies from the lists so sent to him.

This was an unusual step, since the right of appointing Legislative Councillors rested with the Crown, and

„ the Governor was only empowered by his commission to make provisional appointments on his own judgement until the pleasure of the Crown could be known, while the effect of the measure he had taken, was to render the appointments virtually elective. It was intended as a conciliatory act towards those who, during the Anti-Convict agitation, had been opposed to the Government, and led to the selection from that party of four out of the five Legislative Councillors that were appointed. The result showed how little gratitude the Governor met with, from those whose wishes he thus endeavoured to meet. When the Legislative Council assembled, it proceeded to consider how the ordinances for completing the Constitution should be framed; but little progress had been made in its deliberations, when they were interrupted by the resignation of four of the five newly appointed Legislative Councillors. The ground of quarrel taken by these gentlemen was, that the Legislative Council proposed undertaking other business, instead of confining itself exclusively to passing the ordinances required to bring the new Constitution into operation. If this was the real as well the declared reason for their resignation, it is difficult to understand why the four Members who now retired had ever accepted seats in the Legislative Council; since it was well known from the first that it was to transact the ordinary business of the Colony till the new Parliament could meet. In the notice of the Governor, relating to his intended appointment of Legislative

Councillors, he had published the Despatch in which the report of the Committee of Privy Council was transmitted to him, and these documents distinctly stated that the existing Legislative Council was to continue in the exercise of all its usual functions, until the issue of the writs for the election of the first Parliament of the Colony.

On the resignation of the four Members, the Governor did not think it expedient to attempt filling up the vacancies thus created, or proceeding with the consideration of the ordinances*. Instead of this, he appointed the remaining Members of the Legislative Council a Commission to prepare the draft of Orders in Council, which he recommended should be passed in this Country, to establish the proposed Representative Constitution, and by a public notice in the Gazette he invited communications on the subject from all classes of the community.

The course thus taken by the Governor did not meet with our approbation; and Despatches were addressed to him (which I think it right to give at length in the Appendix†), explaining fully our views upon the subject, and our reasons for considering it necessary to adhere to the mode of proceeding originally determined upon, by requiring that ordinances should be passed by the Legislature of the Colony to provide for bringing the proposed Constitution into

* See his Despatch of October 2nd, 1852, in the further Papers presented May 19th, 1851, p. 18.

† See Appendix (D) to this Volume.

operation. Before these Despatches reached the Colony the war with the Kafirs had broken out, and the further consideration of the subject by the local Legislature was unavoidably delayed. Subsequently, after some further correspondence, to which it is unnecessary more particularly to refer, the vacant seats in the Legislative Council were again filled up by the Governor; and on the 14th of September, 1851*, to assist him in completing the arrangement for effecting the desired change in the Constitution, two draft Ordinances were transmitted to him, for the purpose of being laid before the Legislative Council. The Despatch enclosing these drafts had been acknowledged†, but no final proceedings had been taken with regard to them, when we retired from Office. I abstain from any remarks on what I learn by the newspapers, and by the proceedings in Parliament, to have since taken place. I have only to add, on the subject of the Constitution of the Cape, that Sir Andries Stockenstrom and Mr. Fairbairn, two of the Members of the Legislative Council who resigned their seats in the manner I have described, and who afterwards came over to this Country to press their own views on Parliament and the Government, signed, on the 2nd of December, 1851, a petition to the Queen, praying that the Constitution, as embodied in the Letters Patent and the draft Ordinances, might be brought into immediate operation. The Constitution they thus

* See further Papers, presented February 3, 1852, p. 73.

† See the above Papers, pp. 32, 37.

prayed for was the very one, without the slightest alteration, which might have been established many months before, but for their own opposition in September, 1850, to the measures necessary for giving effect to it *.

There can, I think, be no doubt that the bitter opposition made to the Government on the two subjects I have mentioned, by creating in the minds of the Kafirs a belief that the Government would not be able to command the undivided and hearty support of the White inhabitants of the Colony, was one, and not the least powerful, of the various causes which led to the breaking out of the war at the close of 1850. The first appearance of any symptoms of approaching disturbance was reported by Sir Harry Smith, on the 14th of October, 1850, when he stated that, in consequence of accounts which had reached him from Kafraria, he was about to proceed there†, though he attached no importance whatever to the excitement which had arisen.

In a despatch, dated the 21st of October, from King William's Town, he informed me that the reports he had received on his arrival at that place "were of the most satisfactory nature‡," and that I "need be under no apprehension of an outbreak." Ten days later, he reported that he had found it neces-

* See Papers of February 3, 1852, pp. 49, 98.

† Papers relating to Kafir Tribes, presented March 20, 1851, p. 16.

‡ Page 28.

sary to depose the Chief Sandilli, but he expressed the utmost confidence as to the success of this measure, and the absence of the slightest cause for alarm. On the 26th of November Sir Harry Smith reported his return to the seat of Government, having left British Kafraria "in a state of perfect tranquillity*;" but he added that there continued to be much apprehension of an approaching war among the frontier farmers, which he had endeavoured to dispel by a proclamation issued at Graham's Town (where he had remained ten days on his return from Kafraria), in which he assured the inhabitants there was no danger of their being attacked.

On the 5th of December however he reported that he had learned by fresh accounts, that his confident expectations of the maintenance of tranquillity had not been realized, and that he was on the point of again proceeding to Kafraria at the head of an additional body of troops. On his reaching King William's Town he reported that his arrival, with the troops he had brought with him, and the measures he had adopted, would, as he confidently anticipated, prevent any serious disturbance. This confidence he continued to express in the strongest manner up to the 22nd of December†. Two days later an attack was made upon a patrol, under Colonel Mackinnon, which caused a heavy loss to the force under his command, and which proved to be the signal of a general rising throughout Kafraria; fortunately the Chief Pato, and

* Page 45. † Pages 58-64.

the tribes under his influence, who had been formidable enemies in the last war, remained faithful, and have continued so up to the present time.

Soon after the commencement of the war it was rendered much more formidable by the revolt of many of the Hottentots within the Colony, especially those of the Kat River Settlement, which was afterwards followed by the desertion to the enemy, of a large number of men of the Cape Mounted Rifle regiment. To these defections the long continuance and severity of the contest must be mainly attributed. It is not probable that the rebel Kafirs by themselves could long have resisted the force under Sir Harry Smith; but these defections not only deprived him of a considerable amount of force, of the description best suited to the peculiar nature of the war and of the country in which it was carried on, but they also gave to the Kafirs that which they most wanted, allies capable of teaching them how to act with most effect against the British troops. The deserters from the Mounted Rifles are believed to have directed the operations of the enemy, on some of the occasions on which we experienced the most loss; and, if I am not misinformed, the death of several of the brave officers who have fallen during the war has been occasioned by the skill as marksmen, acquired by these men in our service.

A careful perusal of the Papers laid before Parliament will, I think, lead others to the same conclusion at which I have myself arrived, that a too

anxious, though most humane, desire on the part of the Governor to abstain from measures of severity, had a very unfortunate effect in preventing a check from being given in the first instance to the rebellious disposition which showed itself among the Hottentots. On referring to the Governor's Despatch of the 4th of July, 1851*, and its enclosures, it will be seen that none of the rebels who have been the means of causing the death of so many of Her Majesty's faithful subjects and gallant troops have suffered capital punishment; that even men who, it is stated in the Minute of the Executive Council enclosed in the above Despatch, had been proved to have been "present, aiding, and abetting, when loyal and unoffending subjects were shot dead†," were allowed to escape with the sentence of transportation.

It cannot fail to be observed, that the opinion of the Executive Council, that the sentence of death passed upon these men must be remitted, is founded mainly upon the late period at which the question was brought under their consideration, and on the fact that so large a number of persons equally guilty had already been, not merely pardoned, but allowed to enter the Queen's service in the levies that had been raised. No doubt the advice of the Executive Council was the only advice that could be given in the circumstances stated; but it is to my mind equally clear that the impunity, or at least compara-

* Papers, February 3, 1852, p. 72. † Page 74.

tive impunity, of those who had been proved guilty of the murder of Her Majesty's loyal subjects, was calculated to do infinite mischief, and that if a more prompt example had been made of the most guilty, the contagion of rebellion would not have spread so far.

One man, named Botha, among those allowed thus to escape, was the son of a Kat River Field Cornet, that is, of a man in a situation of some trust and authority, who is believed to have plotted the outbreak with the Chief Sandilli. Botha, the son, was taken fighting in Fort Beaufort when that place was attacked by the first Hottentot rebels, and by the Kafir Chief Hermanus, who was killed there. Sir Harry Smith says in his Despatch, he would have ordered this man Botha to be immediately tried and executed, if he had been on the spot when he was taken. The attack on Fort Beaufort, and the capture of Botha, took place so early as the 7th of January, 1851, that is, within a fortnight of the commencement of the war; very few indeed of the Hottentots were then engaged in the rebellion, and, in all human probability, an immediate and severe example, made by the execution of the first culprits, would have prevented many even of those who had a guilty knowledge of the intended rebellion, but were committed by no open acts, from going further, and would almost certainly have deterred those who were still really innocent, from joining the rebels.

It is difficult to collect from the correspondence,

why Sir Harry Smith's absence from Fort Beaufort prevented the immediate trial and execution of Botha and those taken with him in arms, in accordance with the intention declared in the proclamation issued by the Governor, on the 10th of January, 1851. As far as I can understand the matter, the delay seems to have arisen from a desire to conform rigidly to the law, and to avoid the exercise of any power not strictly legal. No doubt the immediate trial and execution of these rebels by courts-martial would not have been warranted by any law; the only courts-martial which exercise strictly legal powers are those constituted under the Mutiny Act, and these can take cognizance only of offences against that Act, committed by persons in the military service of the Crown. The proclamation of what is called martial-law in time of rebellion, confers no legal powers on the officers in command of the troops; it is really nothing more than a declaration that, in consequence of urgent danger, all law is for the time suspended, and that those officers will take upon themselves, without reference to the extent of their legal power, to do what is necessary for the public safety.

Thus when Captain Laye, in New Zealand, caused the four men convicted by a court-martial of the murder of Mrs. Gilfillan and her children, to be hanged in forty-eight hours,—when Colonel Drought, and the officers acting under his orders, tried and executed the rebels in Ceylon,—though by so doing I believe they only fulfilled their duty, and averted

great misfortunes, still they did that which was unwarranted by any law, and which required to be subsequently covered by measures of legislation, passed to indemnify those who had acted under the proclamation of martial-law. In like manner, if Botha and his guilty associates had been tried as soon as they were taken, and had been executed with the least possible delay, their punishment would not have been technically legal, but it would have been not the less just, or the less calculated to prevent in the end a much greater destruction of human life.

Still I cannot be surprised, that Sir Harry Smith should have hesitated to take upon himself the same responsibility that Lord Torrington had done, and that he should have been anxious to proceed with strict and technical regularity, though this, amidst the turmoil of war, necessarily occasioned so much delay, as ultimately to lead to the escape of the guilty, and to all the unfortunate consequences which followed from their impunity. The nature of the attacks to which Lord Torrington and Sir Henry Ward had exposed themselves by the course they pursued, and the countenance given to those attacks, could hardly fail to deter another Governor from adopting a similar course in circumstances of the same kind. If the undue lenity shown to the Hottentot rebels, in the beginning of the war, really produced the bad effects which I am persuaded it did, the responsibility for this unfortunate error rests far more with others than with Sir Harry Smith.

As soon as the intelligence of the breaking out of the war reached us, although it was not accompanied by an application for more troops from the Governor, we immediately gave directions for sending reinforcements to the Cape, which were subsequently increased, as further accounts showed the contest to be of a more serious character than we were in the first instance led to apprehend, and more especially when we were informed of the defection of so large a proportion of the Cape Mounted Rifles. This last circumstance, coupled with the spirit of disaffection shown by many of the coloured inhabitants of the Colony, and the unfriendly feeling toward the Government of some of the most powerful native Tribes, and of the emigrant farmers in the Orange River Sovereignty and the adjacent territory, rendered it, as we thought, necessary to afford to the Governor additional assistance of another kind.

It appeared to us that there must be some causes in operation which had not yet been ascertained, to account for the existence of the discontent which was described as prevailing so generally among the coloured inhabitants of the Colony; and we considered it to be of the greatest importance that these causes should be carefully investigated, in order that they might if possible be removed. The state of things in the Orange River Sovereignty gave us great alarm. The British Resident in that district appeared to have been drawn into a position, very different from that which we had been led to anticipate that he would

maintain, when the assumption of sovereignty was sanctioned; and there seemed to be great danger that, in addition to the difficulties of the war in British Kafraria, we might find ourselves entangled in another war on the northern frontier. At the same time, any attempt to retire, under the apparent pressure of danger, even from a position which ought never to have been taken up, by creating an impression of our weakness, might increase our peril, since most of the powerful Tribes with which we had been brought into contact would probably, while they respected our power, continue to profess at least to be our friends, but would not be slow to attack us if they believed that we were no longer able to defend ourselves and to punish our assailants. If the small British force in the Sovereignty were hastily withdrawn, it was not unlikely that it might be followed into the Colony by the powerful tribes in that district, and that there might be a general rising against us, of all the coloured inhabitants of Southern Africa.

Hence it was of the utmost importance that no false step should be made on the northern frontier. It was to be inferred also, as well from the despatches of Sir Harry Smith as from those of his predecessors, that the difficulty of maintaining peace and order on this frontier arose in a great degree from the disputes with regard to the occupation of land, so constantly occurring among pastoral tribes, and that if the means of settling such disputes satisfactorily could be provided, the principal cause of disturbance would

be removed. But it was obvious that the Governor must be so fully occupied in conducting the war, and the general business of the Colony, as to be totally unable to devote his personal attention either to an inquiry into the causes of the discontent of the coloured classes within the Colony, or to unravelling the complicated maze of the affairs of the northern frontier. The latter especially was a matter of not less difficulty than importance, from the extreme complexity of the conflicting claims and interests to be judged of and dealt with, and on the proper management of which it depended, whether the moral power and ascendency of the British Authorities should be maintained, or whether we should become involved in fresh hostilities, which would interfere with the vigorous prosecution of the war already raging.

For these reasons we thought it expedient that two Assistant Commissioners should be appointed, to act under Sir Harry Smith in his office of High Commissioner for the settlement of the affairs of the Border Tribes. Major Hogge and Mr. Owen were the gentlemen selected for the appointment, for which they possessed the great advantage of being well acquainted with the Colony and with the native Tribes; while at the same time, as they had both left the Cape, and did not, in consequence of being appointed to the office they accepted, intend to remain there for more than a short time, they were less likely than any of the permanent residents, to have their judgement biassed by those party and personal animosities which are

unfortunately too prevalent among the latter. Major Hogge, who had gone to the Cape as a Captain of the 7th Dragoon Guards, had in the former war served as Superintendent-General of native levies, and, by the great influence he possessed with the coloured classes and the confidence they reposed in him, he was enabled to raise a very considerable force, and to contribute most materially to the successful termination of the war. Mr. Owen had served with him, and afterwards had been at the head of a division of Kafir police, which situation he resigned for the purpose of returning to England. Both Sir Henry Pottinger and Sir Harry Smith had expressed a high opinion of the value of their services.

I cannot mention these appointments without saying, how deeply I was grieved by the intelligence of the death of Major Hogge, which reached this country in the month of August last. I had felt myself personally much indebted to both these gentlemen, for having accepted the office they undertook. I knew that they had done so, in compliance with my very earnest and strongly expressed wishes, at a great sacrifice of private comfort and convenience, solely from a sense of public duty, and a belief that they had it in their power to afford useful assistance to the Government, in the critical state of Southern Africa. I had seen much of them previously to their departure, I had derived great assistance from the valuable information they were able to give me, and I had formed a very high opinion of their judgement and

ability. I had watched with interest their progress in the Colony, of which, even after I left Office, I had the means, from unofficial sources, of knowing something; and I had observed with satisfaction, that the value of their services had fully answered the expectations I had formed. It was therefore with much sorrow that I received, through the newspapers, the unexpected and afflicting intelligence of the death of Major Hogge. I deeply deplored the loss thus sustained not only by his family and his friends, but by his Country (for it is not too much to say that a man of his ability and of his character is a loss to his Country), while it could not but occur to me as a painful reflection, that the breaking up of his happy family circle had been occasioned, by his undertaking a duty which I had pressed upon his acceptance.

I trust it may be some consolation to those who must most feel his loss, to know that, short as was the time he had been at the Cape, it was long enough to enable him to perform a public service of the very highest importance. Though the information I possess is very imperfect, and derived in great part from the local newspapers, still it is sufficient to satisfy me, that the prevention of a new war in the Orange River Sovereignty, at a time when it must have led to the most calamitous consequences, is mainly owing to his exertions, and to the sound judgement he showed in circumstances of no ordinary difficulty; and I believe almost the last act of his life was to conclude an arrangement, calculated to secure

the peace of that part of Africa. Such seems to be the opinion generally entertained by the inhabitants, who have good reason to respect his memory, as that of one to whom they are deeply indebted. I trust that his untimely death may not lead to the disturbance of the peace he had established and the arrangements he had made. As I know that you were, like myself, well acquainted with Major Hogge, and that you appreciated his merits, I am sure you will not think that I have digressed too far from the subject immediately before me, in thus expressing my feelings with respect to him.

I will not attempt to give any account of the events of the war, which are sufficiently known, to render it needless for me to enter into so painful a topic. I must however express my great admiration of the general conduct of the troops during this protracted struggle, in which their gallantry, their discipline, and their cheerful endurance of extreme fatigue have been entitled to the greatest praise; and it is not without reluctance that I abstain from mentioning the names of some officers who appear to me particularly to have distinguished themselves, from the apprehension that my doing so might appear invidious towards others. I must also express the satisfaction with which I learn, from the newspapers, that at length the war may be considered virtually at an end, and the enemy completely subdued, which has, I understand, been effected without any additional troops having been sent out, or any change in the arrangements which we had made,

and the instructions we had given previously to our retirement from Office. The present war will have been concluded by the measures we had directed, in about the same number of months from its commencement as it took to finish the war we found raging when your Administration was formed.

Having referred to the arrangements we had made before we retired from office, I cannot avoid mentioning that these arrangements included the recall of Sir Harry Smith. But I will only say on this subject, that it was with the greatest reluctance we came to the conclusion that it was necessary to submit to the Queen the advice we did. It was most painful to our feelings to do so, but on a question of this kind we were not at liberty to consult our private feelings. This was fully understood by Sir Harry Smith himself, of whose most handsome and honourable conduct I cannot too strongly express my sense. He has shown no resentment against us for what we did, but has fairly given us credit for having been guided only by considerations of public duty. I feel individually very deeply indebted to him, for the kindness with which he has acted towards me since his return, and for the readiness he has shown to believe, that no want of regard for him on my part is implied by the painful measure which was taken, and of which, though it was approved by you and by our colleagues, the chief responsibility necessarily rests with myself.

I cannot leave the subject of the Kafir war, without making some further observations on the policy which

has been adopted, and on that which may be followed in future. It is impossible not to perceive, that a general feeling exists in this Country, that the Colony is not worth the sacrifices it imposes upon us, and that it was a grievous error to get entangled in a situation in which such sacrifices are required. With a third costly and troublesome war, hardly yet finished, less than twenty years after the commencement of the first, it certainly is not surprising that such a feeling should exist. Few persons would probably dissent from the opinion, that it would be far better for this Country if the British territory in South Africa were confined to Cape Town and to Simon's Bay. But however burdensome the Nation may find the possession of its African dominions, it does not follow that it can now cast them off, consistently with its honour or its duty. It has incurred responsibilities, by the measures of former years, which cannot be so lightly thrown aside.

If from the moment of the conquest of the Cape from the Dutch, the British Government had resolutely adhered to the policy of preventing any advance of the then Colonial frontier, and of limiting, instead of increasing, the extent of territory that was occupied by British subjects, I believe it would not have been impossible (though certainly it would have been very difficult) by judicious measures to have accomplished this object.

But a very different policy was pursued, and in the year 1819 more especially, a measure was adopted to

which a great part of the difficulties which have since arisen may be traced. In that year the Chancellor of the Exchequer proposed to the House of Commons that a grant of £50,000 should be made, to enable the Government to assist unemployed workmen in this Country in removing to one of our Colonies; and, in doing so, he stated that the south-eastern coast of Africa had been selected as the place where this experiment was to be tried, in consequence of the natural advantages it was supposed to possess. The grant was made with the general concurrence of all parties; even Mr. Hume, with all his love of economy, expressing only regret that Ministers had not gone further, and saying that, from the excellent climate of the Cape and the fertility of the soil, the greatest advantages could not fail to result from the proposed Settlement. Accordingly about five thousand emigrants from this Country were sent to the Cape, and established in the district of Albany, at an expense of more than £120,000*.

These Settlers were thus sent out by the express act of the Government, with the cordial approbation

* The following were the charges incurred:—

By the Navy and Victualling Boards, for conveying and victualling Settlers	£86,760
Rations issued in the Colony	19,833
Public Buildings	15,925
	£122,518

(See Accounts laid before the House of Commons in 1821, and the extracts printed for Parliament, from the Report of Commissioners of Inquiry at the Cape of Good Hope, of May 25, 1825.)

of Parliament, to inhabit a territory immediately adjoining that occupied by numerous tribes of warlike savages, to whom their property was sure speedily to become as irresistible an object of attraction, as, little more than two centuries ago, the cattle of the inhabitants of the county in which I am now writing (Northumberland) used to be to the Moss-trooper across the Scottish Border. Indeed the Tribes of Southern Africa seem to regard cattle-stealing much in the same light that it was considered by those Border freebooters, whose exploits form the subject of the ballads collected by Sir Walter Scott; and, instead of looking upon it as a crime, or something to be ashamed of, they view it as the natural and most honourable pursuit for brave men to follow. With such neighbours close to them, the Albany Settlers were also established by the Government of the day, in such a manner as to render the protection of their property peculiarly difficult. Instead of being collected together in villages, so as to have been able to combine with facility for their common defence, they were scattered over the country, each family on its separate farm; and, as the grants of land were large, the extent of territory thus occupied, and requiring to be guarded, became very large in proportion to the population. The natural consequence was, that almost as soon as they were fairly established on their land, and had acquired some property in cattle, they began to suffer from the depredations of the Kafirs; and as early as 1822 this came to be a subject

of bitter complaint. From that time to this, these depredations have continued, with but few and short intervals; and on three occasions in the last twenty years they have led to fierce and desolating wars, for all these wars have arisen directly or indirectly from the desire of plunder on the part of the Kafirs.

Such being the origin of the obligation, which this Country has hitherto acknowledged, to protect the Cape frontier, it can hardly be at once assumed that, because the responsibility is become very burdensome, we are entitled to throw it off and leave the Settlers to shift for themselves as best they can. Notwithstanding all the difficulties and dangers with which they have had to contend, the comparatively small number of the original emigrants is now largely increased; and the European population of the eastern districts was ascertained, by the Census of 1849, to exceed 34,000*, while the property they have accumulated by their industry was estimated by Sir Henry Young, in 1848, at considerably more than four millions and a half†. Can British subjects possessing this amount of property, having been placed by the Government and Parliament in a situation of so much danger, be now abandoned to the mercy of their barbarous neighbours? No doubt they ought to be called upon to exert themselves for their own defence; no doubt they ought not to be allowed

* See House of Commons Sessional Paper of 1852, No. 124.

† See Sir H. Young's evidence before the Committee of the House of Lords on emigration from Ireland.

indefinitely to extend the area over which they are to spread, with the expectation of being guarded by us, and those who choose to occupy land beyond the authorized boundaries of the Colony, must do so at their own risk. But it does not appear to me that, within the limits of the territory which has been acquired by the Crown, and where subjects of the Crown have been established as Settlers by means of a Parliamentary grant, they can, without great disgrace to the Country, be refused the military aid which is necessary for their protection.

But it is said, let them manage their own affairs, and they will easily protect themselves; they are not less able to do so than the Settlers in the western parts of the United States. Nothing can be more fallacious than such an argument. The North American Indians are for the most part tribes of hunters; their numbers therefore are necessarily very small in comparison to the territory they occupy, and the force which any Indian Chief can bring into the field is far less numerous, as well as infinitely less formidable in character, than that of the Kafirs, which includes both cavalry and infantry. The Settlers in the Western States of the Union are also generally engaged in the cultivation of corn, and consequently occupy the territory in a manner which enables them to defend themselves and their property more easily than if their chief dependence was on their flocks and herds, like that of the farmers of Southern Africa. It appears likewise that in some parts of the Union,

the support of the troops of the General Government is indispensable to the Settlers, and, among other places, on the borders of California and of Texas, this aid is afforded to them.

I do not however dispute its being likely that in the end, if left to themselves, the superior intelligence and civilization of the European inhabitants of Southern Africa would prevail against their barbarous neighbours; but it would only be by waging against them a war of extermination, to which they would be driven in self-defence, and in which they would suffer as well as inflict infinite misery, before it was brought to what would probably be its close. The United States, which are quoted as an example for our guidance, seem to me in this matter rather to afford us a warning. For my own part I confess I should grieve to think that the ultimate occupation of Southern Africa by a civilized population was only to be accomplished, like that of North America, by the gradual destruction of the native races, before the advancing tide of a White occupation of the soil. I believe that, instead of this, the civilization of the Black, and the ultimate amalgamation of the two races, is not impracticable, if the superior power of this Country is wisely and generously used to enforce on both sides a respect for each other's rights, and to foster all those germs of improvement which are already showing themselves among the aboriginal population. I can see no reason why, what has already been so far accomplished in New Zealand, should

not be so likewise in Africa. Nor do I think that a Christian Nation would be justified, in throwing off the responsibility which Providence has cast on the British Government, by the power placed in its hands in this part of Africa, and in deliberately, and with open eyes, incurring the fearful consequences which must arise, from leaving the Settlers and the Kafirs to struggle for possession of the soil.

I must add, that looking to the success for nearly three years of the measures adopted in British Kafraria, after the termination of the last war, I see no reason for doubting (in spite of subsequent disasters) that without any heavy expense the Kafirs might be so governed as to maintain peace and order amongst them until civilization could fairly take root. I believe (and the experience gained in Natal confirms my opinion) that the policy adopted with this view was right in itself, though, from errors in its execution, it has failed for a time. I think I can see what those errors were, and, from the experience which has been gained, they might be avoided in future. In so difficult an enterprise as that of endeavouring to reclaim and civilize a barbarous people, it is only natural that there should be mistakes at first; nor ought partial failures in the beginning, to discourage us from persevering in attempts which have so high and noble an object. Before I quit the subject of the Kafir war, I must quote the opinion of one whose position and personal character combine to make him a high authority on the subject. The Bishop of Cape Town

concludes his interesting journal of one of his Visitation tours, which was published some time ago, with the following observations :—

"I feel it right to express here my firm conviction, that neither the present Kafir war, nor the rebellion of the Hottentots, has been brought about by any oppression on the part of the Government of this Country. There are features in our border policy of which I cannot approve; but our government of British Kafraria has been wise, just, and humane. We have, it is true, held military possession of the country; it was essential to our own safety that we should; but we have not interfered with the government of the Chiefs more than was absolutely necessary; and when we have interfered, it has been to protect the oppressed. The real causes which have led to the present war with the Kafirs are, 1st, that, under the system which was established, the Chiefs' power was gradually fading away; 2nd, cattle-stealing was put a stop to by a very efficient police; 3rd, the distress consequent upon the severe drought of last year; and 4th, a knowledge of our internal divisions, and the alienation of feeling between the white and coloured races, and between the English and the Dutch. For the Hottentot rebellion there is no excuse whatever. The rebels of the Kat River had had one of the finest parts of the country given to them to live on; Government dealt most liberally with them. Sobriety and industry would have

enabled them to take their place among the landed proprietors of the country. That the white man has failed in his duty to the coloured races in South Africa, the Christian to the heathen, I do not deny; I feel it to be a great reproach. But whatever may be the amount of his shortcoming in this respect, it would be a grievous wrong to assign it as a justification of the rebellion which has spread over so large a portion of the eastern province."

I am persuaded that in this passage the Bishop has taken a most accurate view of the subject. I have no doubt that, with regard to the Kafirs, all the causes he mentions contributed to produce the outbreak which so unfortunately occurred; and I think it may be worth while to insert in the Appendix a despatch* which, on receiving Sir Harry Smith's report that the first alarm had passed away, I addressed to him, for the purpose of pointing out the steps which might be taken to conciliate the Chiefs, without whose assistance, I believe with Sir Henry Pottinger, that it will be very difficult, if not impossible, to govern such a population, and whose enmity must be a source of extreme danger, so long as the feeling of clanship is as strong as it now is among these Tribes.

What I have thought it necessary to say of the Cape has extended to so much length, that I must confine myself to a very slight notice of the affairs of

* See, in the Appendix (E), Despatch to Sir H. Smith of January 7, 1851.

the dependent Settlement of Natal, though there is much that is interesting in its history during the last six years. Within that period provision has been made by a revenue, raised within the Settlement, for all the expenses of its civil government, which had previously been met in great part by advances from the Treasury of the Cape of Good Hope and from the Military Chest*. These advances have been repaid, and the civil administration of Natal has been carried on, without our having been compelled to apply to Parliament for pecuniary assistance, which, I must be permitted to say, is a circumstance not a little out of the usual course, as well as highly satisfactory, considering how short a time it is since the territory was taken possession of, and how little progress had been made, in 1846, in organizing a Government capable of maintaining itself. In the last six years the troublesome and perplexing questions relating to land, which had arisen from the measures previously adopted, have also been settled, and a very considerable number of emigrants from this Country have been sent to Natal.

A part of the revenue, by which the necessary expenditure of the Colony has been defrayed, has been raised by a direct tax of seven shillings a-year imposed upon each native hut, from which source an income

* See, in the Papers relating to Natal presented in 1850 and 1851, Sir Harry Smith's despatches of September 12, 24, 1849, and of April 15, 1851, with their enclosures.

of nearly £9000 was derived in the first year of its being levied, and which has since, I believe, been still more productive*. I would particularly call your attention to the imposition of this tax, as a measure of very much greater importance than it would appear to be from the mere amount of the revenue realized by it, though this was far from being of slight moment to such an infant Colony. The tax derived its chief importance, from its forming an essential part of a general scheme of policy for the civilization and improvement of the native inhabitants of Natal, of whom it is proper therefore that I should give a short account.

Very few indeed of these people belong to tribes which inhabited the territory now included in the Colony of Natal even fifty years ago†; the population which then existed there having been almost entirely exterminated or driven away, in the bloody wars, of which this part of Africa has been the scene. The present native inhabitants of the Settlement, who are estimated at not less than 100,000, consist for the most part of broken tribes or individuals who have fled from the tyranny of the more powerful Chiefs of that part of Africa, and have sought shelter in the British dominions. They are of a Kafir race, and speak a dialect of the same language as the tribes with whom we have been at war on the Cape frontier;

* See in the above Papers Sir Harry Smith's despatches of July 31, August 31, and September 12, 1849; of February 26 and October 30, 1850; and of April 15, 1851.

† See Natal Papers of August, 1850, p. 45.

they are probably even more uncivilized than the latter but, like them, are a pastoral people, and possess a considerable number of cattle.

Such being the native population of Natal, it is obvious that, if they were allowed to continue uncivilized and unimproved, adhering to the barbarous customs of their ancestors, while living in the midst of the European Settlers, they could not fail to prove an intolerable nuisance to the latter. They would become a source of danger, which would daily grow more serious, as by natural increase and fresh immigrations their numbers augmented, beyond what the lands, that could without inconvenience be assigned to them, would be sufficient to support, when occupied after the manner of savages. On the other hand, if they could gradually be brought under the influence of religion and of education, and could be made to exchange their barbarous habits for those of civilized life, the presence of these people would be the greatest possible advantage to the Colonists, by affording them a supply of labour, which is urgently required, and which alone is wanting to render a territory possessing remarkable natural advantages productive. With the habits of civilized life, these people would also naturally acquire the wants and the tastes belonging to it, and would thus create a demand for articles of European manufacture which would increase both the trade and revenue of the Colony.

The improvement of the native inhabitants being of this vital importance, the measures proposed for

effecting it were founded upon precisely the same principles which I have already fully explained in speaking of the Negro population of the West Indies. For the reasons I have there stated, the levy of a direct tax upon these people was considered an indispensable part of the system to be pursued, as well with the view of creating a motive for exertion, as with that of raising the pecuniary means, which could hardly otherwise have been found, for the payment of magistrates, and for providing the requisite establishment for the management of so large a population. It was obviously just, that the inhabitants of the surrounding districts, who have flocked into the British territory (sometimes from very great distances) for the sake of the protection they enjoy there, should be required to defray the expenses it was necessary to incur, in order to render it possible to grant them the protection they desired, without injury to the Colony. The justice of this was felt by themselves, and they consequently paid the tax (which they were allowed to do, when they preferred it, in cattle instead of in money) with readiness and goodwill.

For a full exposition of the further measures which were contemplated for the improvement of the native population of Natal, I must refer you to a despatch which I addressed to Sir Harry Smith* on the 30th

* The instructions contained in this Despatch were modified in some particulars by a later one; but as the last has not yet been laid before Parliament, I am unable to quote it. See Appendix (F) to this Volume.

of November, 1849, which I insert in the Appendix. I will only add, upon this interesting subject, that though the results aimed at by our policy can only be very slowly and gradually attained, and though, from the necessity of proceeding with extreme caution, in the introduction of changes affecting so large and so barbarous a population, the measures we proposed have as yet been brought only very partially into operation, it is satisfactory to know that they have already so far succeeded as to prevent the war, which has so long raged in British Kafraria and on the Cape frontier, from extending into Natal. In that Settlement the war, which has been raging at so small a distance, has had no bad effect beyond that of creating some temporary alarm, the native inhabitants having continued to pay a ready and cheerful obedience to the Government, and good order and security having never ceased to be maintained. If these blessings of peace and order can be preserved, I feel persuaded that, under their shelter, every other improvement will gradually grow up; and I trust I am not too sanguine in believing that, although, for many years to come, the affairs of Natal will require to be watched with the most anxious attention, to guard against the various abuses and dangers which, in such a state of society, are likely from time to time to arise, still, before your Administration was broken up, the first and most difficult steps had been accomplished, in the adoption of a policy which, if duly

followed up, will ultimately lead to the civilization of the native inhabitants and the prosperity of the Colony.

December 16, 1852.

LETTER XIII.

HONGKONG.—LABUAN.—FALKLAND ISLANDS.—WEST COAST OF AFRICA.—MALTA.—CONCLUDING OBSERVATIONS.

My dear Lord John,

I have now gone through all the Colonies of which the affairs require to be noticed at any length; those which remain to be mentioned are chiefly valuable from serving as factories and trading-stations, or as naval and military posts, and may be dismissed much more briefly.

The first I will mention is Hongkong. The chief subject we had to consider with respect to this Island was that of the very heavy expense which it occasioned to the Country. If the exceedingly large amount of that expense, and the limited use of which the place has proved to our commerce, could have been foreseen, it may well be doubted whether it would have been thought worth while that it should be taken possession of. This had however been done long prior to the formation of your Administration;

and it only remained for us to endeavour to reduce the expense of the establishment, which had been formed on a scale suited to the supposed importance of Hongkong, at a time when it was confidently anticipated that it would become the great emporium of the Chinese trade. In 1846 it was already obvious that this would not be the case, and that the greater part of our commerce with China would be carried on in the ports of that country to which our merchants are admitted. The reduction of the establishment of a Colony, which has originally been formed on too large and costly a scale, must always, for obvious reasons, be a work of much difficulty; but I trust that, without the slightest injustice, or even harshness to any individual, and with no sacrifice except that of our own patronage, we succeeded in effecting a satisfactory reduction of the large expenditure of the Country at Hongkong.

By a despatch from the Governor, Sir Samuel Bonham, which was printed with the miscellaneous estimates laid before Parliament in the year 1851, it is shown that the vote required for the service of this Colony, which had been £49,000 in 1845 and £36,900 in 1846, has since been progressively reduced to £15,500 in 1851. A considerable part of this reduction is due to the diminished expenditure on public works; but the Governor shows, in the despatch to which I refer, that, excluding the charge for public works in both years, the estimated expenditure of the Colony for 1851 was £5068 less than

that of 1848, when he assumed the government of the Colony, and his predecessor, Sir John Davis, reported in 1847 that he had previously effected permanent retrenchments, in salaries alone, to the amount of £2800 a-year*. There was a further reduction in the estimate voted in the last Session, but this consists principally in a transfer of half the Governor's salary to the estimate for consular services. The military expenditure at Hongkong has also been largely reduced: in 1847 it amounted to £115,149; in 1851 it was only £51,895†. This reduction is owing, partly to the completion of military works and buildings, and to the determination not to undertake others that had been projected, partly to a considerable diminution of the Garrison. I have only to add, with regard to Hongkong, that its trade and importance appear to be increasing, and that it is generally in a satisfactory condition.

Another trading port which we possess in the Eastern Seas is that of Labuan. On our accession to Office we found that memorials, earnestly praying that it might be occupied, with a view to opening a commercial intercourse with the large and imperfectly known Island of Borneo, had been addressed to the Government from more than one quarter, and especially by the Chamber of Commerce of Manchester, and by the merchants of both London and Glasgow.

* See Sir John Davis's Despatch of March 13, 1847. (Blue Book Reports presented in 1847.)

† See Blue Book Reports presented in 1848 and 1852.

We were of opinion that the reasons urged for this step were sufficient to make it proper to adopt it, and accordingly arrangements were made for taking possession of Labuan (which had been previously ceded to this Country) as a British Colony. Sir James Brooke, so well known for his philanthropic and enterprising attempts to introduce civilization into Borneo, was appointed Governor of Labuan, and at the same time Consul in Borneo.

Hitherto the advantage derived from the formation of this Settlement has not been so great as was anticipated; partly, as it appears, because piracy still prevails on the coast of Borneo, enough to check the native trade; partly because the coal which exists in the Island, and which afforded one of the principal reasons for taking possession of it, has not yet been worked to the extent which was expected; the Company, to which a portion of the coal-field was let, not having hitherto carried on its operations with sufficient energy to supply even the present demand*. This last obstacle to the progress of the Colony will probably be removed, either by the transfer of the business of the Company into different hands, or by other persons obtaining a lease of another portion of the coal-field. From the rapidly increasing demand for coals for steam-navigation in the Eastern Seas, I had hoped that before we left Office an application for another part of the coal-field, which is still in the hands of the Crown, might have been made; but

* See Blue Book Report presented to Parliament in 1852.

none had then been received; it is not however probable that so favourable an opening for enterprise will long be neglected. There appears to be some reason to believe that a commercial intercourse between Labuan and Borneo is at length beginning, which may by degrees be extended.

There is another small Establishment, which was formed for the convenience of our commerce in a different part of the world, which I must not pass entirely unnoticed. I refer to the Falkland Islands, which have long been claimed as belonging to the British Crown, but of which no use had been made, until it was determined to occupy them, when you held the office of Secretary of State for the Colonies. The object of doing so was to create a small Settlement where passing ships might refit and obtain supplies, for which these Islands, notwithstanding the inclemency of their climate, were considered to be peculiarly well adapted, from their possessing admirable harbours, and lying directly in the track of vessels returning to this Country from Australia or the Pacific by Cape Horn. They also afforded considerable resources in the herds of wild cattle which are to be found upon them. These cattle, being the property of the Crown, were sold to Mr. Lafone, an enterprising merchant, engaged in the commerce of the River Plate; and a considerable sum of money, to be paid in instalments, was thus placed at the disposal of the Government for the improvement of the Islands.

During the five years and a half of your Adminis-

tration, few measures of importance were adopted with reference to the Falkland Islands. A portion of the money paid by Mr. Lafone for the wild cattle, was expended in sending out a small party of military pensioners, (who have not proved by any means such good settlers as those sent to New Zealand); and an arrangement was concluded by which a regular communication will be established between this Country and the Falkland Islands, by means of a small vessel plying between these Islands and Monte Video, where it will meet the mail-steamer from England every alternate month. A charter has also been granted to a Company formed by Mr. Lafone, to which he has transferred the undertaking, which was previously entirely in his own hands, and he has thus obtained the assistance of additional capital for the enterprise in which he has embarked.

Hitherto this Settlement has not advanced rapidly; probably it could hardly have been expected to do so, unless a larger expenditure had been incurred than was considered advisable, in carrying out and establishing emigrants there; but it seems now to have taken root, and will, I trust, do well hereafter. Already, from the growing up of some little trade, and from land having been brought into cultivation, it has been found possible, in the last four years, to discontinue the issue of rations from the Government stores to the inhabitants, who can now purchase for themselves what they require. Those of the working-class can find ample employment at good wages, and ships which call there

can depend upon obtaining the most necessary supplies. The advantages offered by this place of call on the long voyage home, are beginning to be known, so that each year more vessels are stopping there on their way; and, from the great increase of the trade with Australia and California, it is probable that the Port of Stanley (the name of the Settlement) will be more and more resorted to. I am informed that a ship wanting water or provisions, in the run home from Cape Horn, may save not less than from ten days to a fortnight, by calling at Stanley instead of Buenos Ayres or Rio de Janeiro, besides having no port charges to pay. In proportion as more vessels call for supplies, these will be furnished more abundantly and better, since private enterprise will be sure to meet the demand, which the greater resort of shipping to the port will create. It is to be hoped also that the means of refitting ships that have suffered in the stormy passage round Cape Horn, which already exist to some extent, will be increased in the same manner, and that a plan of establishing there a patent slip, which was at one time under consideration, with a view to its being undertaken by the Government, will be taken up as a private speculation.

But by far the most important of the British possessions held chiefly for commercial objects are those on the coast of Africa. It is painful to think that our oldest establishments in that part of the world are the forts originally occupied as slave-factories. I trust that the Nation is making the best reparation it can

for its sins against Africa, by now maintaining these same forts as the most effectual check that can be put on the infamous traffic in slaves, which they were in former times intended to promote, and as centres from which legitimate trade, carrying with it civilization and the light of Christianity, may be spread through a large part of that great continent. Of the British possessions in Western Africa, the forts on the Gold Coast are those which seem to be producing the most effect, in the improvement and civilization of the hitherto barbarous inhabitants of Africa.

The position which is there occupied by this Country is very singular and anomalous. The British territory, properly so called, is confined to the forts, and the distance of a cannon-shot around them. Beyond this circle no dominion is claimed on behalf of the Crown; but British influence and authority extend over an area of not less than 8000 square miles, constituting the territories of various native Chiefs, and inhabited by a population estimated at 400,000 souls at least*. Justice is administered to this large population, by their own consent and under the sanction of an Act of Parliament, by British magistrates. The principal of these magistrates is an officer who bears the somewhat strange title of the Judicial Assessor †,

* See Blue Book Report presented to Parliament in 1852.

† Nominally this officer is appointed as an assessor or assistant to the native Sovereigns or Chiefs in the countries adjacent to Her Majesty's forts and settlements on the Gold Coast. (See Blue Book Report presented in 1850.)

who sits principally at Cape Coast Castle, and exercises a superintendence over the proceedings of the magistrates who sit at the other forts. The population of the country under British influence and protection, bring their various disputes for decision before these magistrates, on whom the singular duty is imposed, of enforcing the rude laws and customs of so uncivilized a people, qualified only by those plain and universal principles of justice, which even the most ignorant races understand when explained to them.

It is an inevitable consequence of this system, that the British Authorities must tolerate much of which they do not approve. For instance, the custom of domestic slavery is too firmly established to be suddenly altered: it has been necessary to recognize its existence, and to be content with prohibiting the sale of a slave out of the country which is under British protection, and to enforce limits to the authority of the masters by taking cognizance of and punishing their ill-usage of their slaves. No other course can be taken, because our authority rests entirely on the moral ascendency of those who exercise it, and on the willing obedience of the population. The physical force at the command of the Governor consists of a mere handful of troops, generally not more than two or three companies of a West India regiment, which of course would be powerless amidst such a population, unless their obedience were voluntary. So entirely does the Governor of Cape Coast Castle depend for

the maintenance of his authority on the support of the people themselves, that in the only case in which I remember a recourse to arms to have been necessary, Sir William Winniett, with only a very few Europeans to assist him, conducted an expedition of about 5000 natives, against the Chief of Appolonia, whose extreme tyranny, cruelty, and contempt of British authority called for severe chastisement. The tyrant was deposed and captured by this force, and the expenses of the expedition were defrayed from his ill-gotten treasures, of which he was deprived.

It is obvious that, such being the system which prevails, it would be in the highest degree impolitic to enforce at once all the laws we should think right, and violently to abrogate all we disapprove, without reference to the feelings of the people. The attempt to do so would undoubtedly provoke resistance to our authority, and we should have neither the right nor the means to enforce it. Those who now willingly obey the Governor and the magistrates appointed by the Queen, within the limits sanctioned by opinion, are not British subjects, and the attempt to reduce them to the entire obedience, which as such, might be required from them, and to compel them by force to submit to laws which they cannot be induced willingly to accept, would render it necessary to employ a very large body of troops at an enormous expense, and would after all probably fail. By the system now pursued, on the contrary, at a very small cost compared to the importance of the object to be attained,

a great amount of immediate good is effected, and the sure foundations are laid for much greater good being accomplished hereafter.

Already wars between the various Chiefs in the territory under our influence, have been completely put an end to, by the practice which has been established of bringing their quarrels and disputes to our magistrates for adjudication; and even the most powerful Chief, who should refuse to submit to the decision pronounced (so long as the decisions of the English magistrates are looked up to as they now are), would be crushed by a general combination against him. Thus for several years internal wars have ceased; and the dread of British power, and the knowledge that the united strength of all the Chiefs in the district we protect, directed by British officers and supported by a small disciplined force, would be promptly exerted to punish aggression upon any part of this territory, has been sufficient to restrain even the most powerful of the surrounding tribes or nations from attempting to injure those who acknowledge our authority. The Gold Coast has thus for several years enjoyed an exemption from war, whether external or intestine, while at the same time there has been a slow but constant mitigation of the oppression to which the bulk of the population of Africa is subject from their rulers.

The public administration of justice by the British magistrates, whose practice it is to explain the grounds of their decisions, has been a powerful instrument of

improvement, by preventing the infliction of the barbarous punishments formerly in use, and by gradually diffusing more correct notions as to right and wrong, and as to what actions constitute offences which ought to be punished. It is only so lately as since the year 1849 that the important principle has been recognized that punishments ought not to be inflicted on persons accused of witchcraft, and that outrages committed upon those who have not conformed to the rules of the degrading superstition of the "Fetish" are to be regarded as giving the sufferers the like claim to redress as the same outrages committed under any other circumstances*. Those who are acquainted with African manners will easily see that the recognition of these rules at once puts an end to the most fertile source of oppression, and the most common pretence for the plunder, by the priests and chiefs, of those who have gained some little property by their industry.

By these means the security of life and property may be said to have been within a few years almost completely established; and this first great step towards improvement having been gained, the natural consequence is that trade and industry are daily increasing, and education and Missionary labours are successfully carried on under the shelter of the peace and order which are maintained. I anticipate that improvement will now proceed at a rate constantly accelerated; since a generation, many of whom have

* See Blue Book Report presented in 1850.

had the advantage of education in the Government or Missionary schools, have now risen to manhood, and are becoming the means of diffusing amongst their countrymen more or less of that instruction which they have themselves received. It is also a most important circumstance, as regards the prospects of future improvement, that the advantage of combining industrial with intellectual and religious instruction is now recognized by the Wesleyan Missionary body in this part of Africa. An exceedingly interesting report upon this subject by Mr. Freeman, the excellent and enlightened Missionary of the Wesleyan Society, will be found attached to the last general Report upon the condition of the Colony, which has been laid before Parliament. Mr. Freeman has pointed out with much clearness and ability the importance of the instruction of the people in agriculture, with a view to their civilization and moral improvement; and the experiments conducted under his direction prove beyond all doubt the remarkable fertility of the soil, and the ease with which many valuable productions of tropical climates can be raised there. Indeed the country seems so well adapted for producing various articles which are always sure to sell well in the markets of Europe, that, as security is now completely established and there appears to be no dearth of labour, this part of Africa seems to afford a very promising field for the application of English capital.

In the state of things I have described, it is, I think, obvious that the right policy for the Govern-

ment to adopt, was to maintain the general system, which is working so well, and at the same time to take every opportunity of introducing improvements as fast as this could safely be done. Such is the view which was acted upon, during the period of which I am treating in these Letters; and, without any great or sudden change having been made, various measures have been taken from time to time to promote the progress of improvement. Of these not the least important is that to which I have just referred, as having put a stop to the infliction of punishment or violence, upon those who are accused of witchcraft, or who have broken the superstitious rules of the Fetish. Though made under the guise of a decision of the Judicial Assessor, this is in truth the enactment of a new law, directed against one of the greatest evils under which the people of Africa laboured; and their acquiescence in the establishment of this law may be said, without exaggeration, both to afford a striking proof of their having already made a great step onwards in civilization, and also to have removed one of the most formidable obstacles to their future advance. In like manner, by other decisions of the Judicial Assessor, the laws and customs which they recognize, are gradually and silently brought more into harmony with justice, and with the feelings and opinions of Christian nations.

This progressive improvement of the laws under which the people live, has been assisted by the establishment of a Legislative Council, with the concur-

rence of which the Governor can pass laws for the portion of territory which belongs to the Crown. Cape Coast Castle and the other British forts in its vicinity had latterly been considered a kind of dependency of Sierra Leone, and had been governed by an officer of no higher rank than that of Lieutenant-Governor, who possessed no legislative power whatever. This appeared to me an inconvenient arrangement, and accordingly the Queen was advised to grant to the late Sir William Winniett a commission as Governor, by which he was authorized, with the assistance of a Legislative Council, to pass ordinances for the British territory thus erected into a distinct Colony. It is true that these ordinances have, in strictness, the force of law only within the very limited space surrounding each fort, which is under the dominion of the Crown; but there can be little doubt that, in the state of society which I have endeavoured to describe, laws suited to its growing wants, when passed by the Governor of Cape Coast Castle, will practically be accepted as valid throughout the district which acknowledges our influence, though they are not legally binding beyond the reach of a cannon-shot from the walls of the forts. By a more recent arrangement, of which I shall have to speak before I close this Letter, this extension of the authority of such laws will be rendered easier.

We were also enabled during your Administration to do much towards consolidating the power and influence of this Country on the Gold Coast, by the

acquisition of the Danish Forts, which are in close proximity to those previously belonging to us. The Government of Denmark, feeling that the maintenance of an establishment on the African coast was too heavy a burden for that kingdom, but being at the same time anxious that its forts should only pass into the hands of a Power by which they would certainly be used not to encourage, but as much as possible to check, the Slave-trade, very handsomely offered to cede these possessions to the Queen, in return for the payment of the value, at a very moderate estimate, of the guns and other property which were to be made over to us. Accordingly it was settled that the cession should be made on the purchase of the property in question, for the sum of £10,000, being completed, and we obtained from Parliament a grant by which this arrangement was carried into effect*.

In connection with the acquisition of the Danish Forts it was determined that, instead of employing as heretofore, a part of one of the West India regiments on the Gold Coast, a local corps should be raised, to garrison the forts and supply the small military force necessary for the support of the authority of the Government. It was represented to me, both by the Governor and the merchants, that as the duties performed by the troops on this coast partake much of the nature of those of a police force, for the proper discharge of which an acquaint-

* See the Correspondence printed with the Miscellaneous Estimates, laid before Parliament in 1851.

ance with the people is necessary, the arrangement by which the forts had hitherto been garrisoned by detachments from the West India regiments, which it is necessary to relieve at short intervals, was not a convenient one, and that it would be much better that a local corps should be raised for the purpose. It was also stated that, while the Natives of this part of Africa cannot be prevailed upon to enlist in a West India regiment, with a prospect of being required to leave their own country, when the detachment they have joined may be moved to another station, there would be no difficulty in obtaining a very good class of recruits for a local corps. Such were the grounds on which it was decided that a force of this kind should be formed. It was further determined, that the men raised for it should not be confined entirely to military duties, but should receive as much as possible the same sort of instruction which is given in this country to the invaluable corps of Sappers and Miners, and that they should be employed in the various works required for keeping the forts in order, and also in making and repairing roads.

Sir William Winniett had already done a good deal, with comparatively small means, toward opening paths or roads on some of the most important lines of communication, and the Natives themselves were beginning to be sensible of the advantage to be derived from them. I attached the highest importance to this plan, of making the corps which was to be

raised, act both as pioneers and as soldiers. The measure promised to afford the means of constructing, at a very moderate cost, roads, which are in all countries among the most efficient instruments of civilization, with the further advantage that the men composing the force would receive the very best industrial education that could be given to them, and, as they were only to be enlisted for five years, this education would be given, in the course of no very long time, to a considerable number of the Natives of the coast. At my request, a selection of officers and non-commissioned officers for the new corps was made by the Commander-in-Chief with a view to these objects.

These measures however fell far short of what it was desirable to accomplish for the improvement of this part of Africa. The extension of roads and of schools much beyond what could be accomplished by the means at present available, the employment of a greater number of magistrates for the more perfect administration of justice, and the establishment of hospitals and dispensaries for the relief of the sick, would have been attended with obvious and great advantage. But these objects could not be attained without a large increase of expense, and Parliament has always shown what I consider a well-founded reluctance to increase its votes for purposes of this description. It does not appear to me that the people of this Country, ought to be called upon to pay for the cost of extensive schemes of internal im-

provement in Africa. Experience shows that, if the Government of the day is allowed to draw at its discretion upon Parliamentary grants for such schemes, they are too apt to be prosecuted without a due regard to economy, or to that caution which is necessary for their ultimate success. I have always believed that if Parliament had originally been less liberal in its pecuniary assistance, the philanthropic objects contemplated in the formation of the Colony of Sierra Leone would probably have been more perfectly attained. Parliament is, I think, right, to be very sparing in its grants for purposes of this kind, not merely for the sake of avoiding undue demands upon the people of this Country, but also because the surest test of the soundness of measures for the improvement of an uncivilized people, is that they should be self-supporting; and great advantage arises from throwing those who are to carry plans of this kind into effect upon their own resources. The people also, for whose benefit such measures are attempted, are rendered more sensible of their value when the pecuniary means required for their adoption are furnished by themselves.

For these reasons, I considered myself bound to adhere to the rule of not proposing to my colleagues, that Parliament should be asked to increase the usual grants for the civil establishments on the West Coast of Africa; and though I was most anxious for the adoption of measures of improvement, which could not be accomplished without considerable expense, I thought it right, in this part of the African continent

as well as in Natal, to proceed with these measures only, as their cost could be provided for by means of local resources. Hence it was an object of great importance to raise a revenue in the country itself; and two modes of doing so suggested themselves: one was the imposition of very moderate duties on the import of certain articles, and particularly spirits; the other was, to induce the people of the protected territory to consent to the imposition of some sort of direct taxation, for objects of which the benefit could be clearly explained to them.

The first of these resources could not be made available, in consequence of the refusal of the Dutch Government to concur in the imposition of any new duties of the kind proposed. The kingdom of Holland possesses forts on this coast close to our own, through which a part of the trade of the district is carried on; it is obvious therefore that, unless goods imported to these places should be subject to the same burden, the imposition of duties on goods imported through the British forts, would have no other effect but that of driving the trade away from the latter, to places where no such charges on importation would be made. It was consequently necessary to look to some kind of direct taxation, as the only mode of raising the revenue which was required, and as being also one which, for the reasons I have so fully stated in former Letters, possessed some special advantages. But the difficulty was how to impose any such taxation, in the absence of any regularly constituted govern-

ment for the whole territory. It clearly could only be done by the general consent of the chiefs and people; and I had many conversations with Sir William Winniett, the last time he was in England upon leave of absence, and after his death with his successor Major Hill, as to the most likely means of obtaining this general assent. The subject was not one which admitted of precise instructions being given to the Governor as to the measures he should take; these it was necessary to leave to be determined by his own judgement on the spot, after having explained the object in view and made the suggestions which occurred to me.

The premature and lamented death of Sir William Winniett prevented him from taking any steps of importance, in furtherance of the design of which the execution had been entrusted to him; but I have learned with great satisfaction since we retired from Office, that his successor, Major Hill, has given proof both of the ability which I did not doubt that he possessed, and of how well he had entered into the policy on which he had been instructed to act, by inducing the Chiefs of the Gold Coast to agree to the imposition of such a tax as I had contemplated. Knowing the deep interest I take in the subject, Major Hill was good enough to write me a private letter after he had received an account of the change of Government in February last, in which he informed me that he had succeeded in inducing the Chiefs and people throughout the countries under British pro-

tection, to agree to a poll-tax of one shilling per head for each man, woman, and child, by which he calculates that a revenue of £20,000 a year will be obtained, to be expended in extending the judicial system, educating the children, affording increased medical aid to the population, opening and improving the internal communications, and other measures of utility. Considering that the whole annual income derived from the votes of Parliament and from all other sources, applicable to measures of improvement and the expenses of the civil government, has hitherto fallen short of £6000, it is obvious that the adoption of a measure by which the funds available for these purposes will be so largely increased, is calculated to accelerate very much the march of improvement. I cannot but regard with great satisfaction the success which, in three different countries so widely removed from each other as Ceylon, Natal, and the Gold Coast, has thus far attended the experiment of imposing direct taxation on an uncivilized population, with a view to their improvement. The experiment is a novel one in modern Colonial administration, and is the practical realization of views which I was led to form more than twenty years ago when Under-Secretary of State, and on which at that time I earnestly, but in vain, recommended that the measure for the abolition of slavery should be founded.

But even the imposition of the tax I have mentioned is of less importance, and less full of promise for the

future, than the steps which have been taken in order to obtain an authority for its collection, which should be regarded by the people as binding upon them. For this purpose, and with a view to future legislation, the Governor thought it advisable to form the native Chiefs, with his Council and himself, into a Legislative Assembly, reserving the power to the Governor to assemble, prorogue, and dissolve this meeting at pleasure. On the 19th of April last, Major Hill had a general meeting of the Kings and Chiefs of the protected territory at Cape Coast Castle, when they unanimously agreed to resolutions by which the authority of the new Assembly was recognized and its constitution settled.

I have had no hesitation in thus stating the substance of the information I have received from Major Hill, for, though it was conveyed to me in a private letter, the proceedings he describes were essentially of a public character, and necessarily known to every person on the coast. I must add that I am much gratified by learning, that a design which I had so long entertained, and in effecting which there were so many difficulties, has been thus successfully accomplished by Major Hill. I am persuaded I do not overrate the importance of the establishment of this rude Negro Parliament, when I say, that I believe it has converted a number of barbarous tribes, possessing nothing which deserves the name of a government, into a nation, with a regularly organized authority, and institutions simple and un-

pretending, but suited to the actual state of society, and containing within themselves all that is necessary for their future development, so that they may meet the growing wants of an advancing civilization. I trust that those whose duty it may be to watch over the future progress of the nation, which has thus, as I may say, been created, will endeavour to guard it carefully from the dangers to which it will be exposed, either by an attempt on the one hand to force too rapidly into existence, before the people's minds are prepared for them, the more regular government and more perfect laws of civilized nations, or by neglecting, on the other hand, to proceed steadily but cautiously with those many social and legal reforms which must be successively adopted, before the traces of recent barbarism and its evils can be got rid of.

The true policy I believe to be that, which for the five years and a half of your Administration was pursued,—namely, to keep constantly in sight the formation of a regular government on the European model, and the establishment of a civilized polity, as the goal ultimately to be attained; but, in the endeavour to arrive at it, taking care that each successive step shall appear to the people themselves as nothing more than the natural mode of providing for some want, or remedying some evil, which they practically feel at the moment. It is thus in fact that our own institutions and laws have grown up, as well as those which have been most permanent and most success-

ful among other nations. Thus, in adopting the measure to which I have adverted on the Gold Coast, wants of which the people were sensible, and to meet which funds were required, have by judicious management led them to concur not only in the imposition of a tax, but in the creation of a Legislature possessing the authority to make other laws, as from time to time they are perceived to be necessary. The real interest of this Country is gradually to train the inhabitants of this part of Africa in the arts of civilization and government, until they shall grow into a nation capable of protecting themselves and of managing their own affairs, so that the interference and assistance of the British Authorities may by degrees be less and less required. Orderly and civilized communities cannot grow up in a country capable of yielding such valuable productions, without our carrying on with them a large and mutually advantageous trade; but in a climate so uncongenial to European constitutions, it is not desirable that the maintenance of order and the progress of civilization should continue to depend on the exercise of authority by white men, or that the duty of governing and protecting the inhabitants of Western Africa should be thrown upon this Country longer than can be avoided.

The British Settlement on the Gambia differs considerably in its character from those on the Gold Coast. The Governor of the former does not exercise any authority over the surrounding population, such as that which I have described as having been

established at Cape Coast Castle. But, on the other hand, Bathurst on the Gambia is the trading-port of a navigable river, affording means of intercourse with the interior of Africa to a distance of several hundred miles. To the trade of this noble river comparative security has been given by the small British force at Bathurst and Macarthy's Island, with the assistance of a steamer, which has for several years been placed at the disposal of the local Government. This comparative security has produced its usual effect, in giving encouragement to trade and industry, among the inhabitants of the countries through which the Gambia flows. A satisfactory account of the improvement which is going on in these countries will be found in the very interesting final Report* of the late Governor, Mr. Macdonnell, who, after having administered the affairs of this Colony with great judgement and energy for between four and five years, seemed to me well entitled to the reward of being removed to a less unhealthy climate, and was therefore, on my advice, on the eve of my retirement from office, appointed Lieutenant-Governor of St. Vincent.

One of the most remarkable and encouraging circumstances mentioned by Governor Macdonnell is, that the population of this part of Africa has shown a far greater disposition to engage in agriculture with perseverance and industry, than seems to have been evinced anywhere else on that continent. The Go-

* See Blue Book Reports presented in 1852.

vernor states that ground-nuts, which are the principal article of export from the Gambia, are raised chiefly by the natives of countries far in the interior, who come down for two or three years to the lower part of the river, where they hire land from the various Chiefs on its banks, for the cultivation of the plant which produces these nuts; and having thus by their industry earned the means of purchasing the European goods it is their object to obtain, they carry them back with them to their own country. It is obvious that a trade so conducted, must have a powerful effect in carrying some knowledge of civilized life and manners far into the interior of Africa.

So rapidly has this branch of industry grown up to its present importance, that the quantity of ground-nuts raised in the countries bordering on the Gambia, and exported from Bathurst, was no more than 47 tons in 1837, while in 1851 the quantity exported (including 1000 tons sent from the French factory of Albreda) had risen to 12,094 tons, valued at £145,133. The Governor points out, that nothing but a market, affording a fair and steady profit for the produce of agricultural labour, seems to be wanting, in order to ensure an almost indefinite increase in the exports from the Gambia, which of course would lead to a corresponding augmentation of the consumption of articles of European manufacture. A steady demand for the produce of their industry would, he says, cause the Natives from the interior to flock to the Gambia in increased numbers; as the experience of past years

shows, that the number of additional labourers who annually migrate from the interior to Bathurst and the surrounding territories, has always been proportioned to the demand for the produce of labour.

This being the case, the Governor seems justified in his conclusion, that cotton might be grown largely and successfully on the banks of the Gambia. All that is required for this purpose, is a steady demand and some little instruction and encouragement to be given, in the first instance, to those who may be willing to undertake the cultivation. Cotton being longer in coming to maturity than ground-nuts, the latter are naturally preferred by those who are ignorant of the advantages presented by the former; but if, as there seems reason to believe, the value of cotton would be amply remunerative, for the time and labour expended on its cultivation, it can hardly be doubted that the population, which is now found to be ready to cultivate ground-nuts to the extent of the demand, might, by judicious management, be led to cultivate cotton also. The cotton-plant is known to thrive admirably in this part of Africa, and land fit for its cultivation is to be had in abundance. The establishment of this as a regular branch of industry in Africa, would, in my opinion, be at once the most certain means of civilizing its inhabitants, and one of the greatest boons which could be conferred upon this country. There is no article of production to which the labour of the Africans could be so advantageously applied, because there is none of which it is so impos-

sible that the supply should exceed the demand; and to this Country it is of vital importance to multiply as much as possible the sources of our supply of cotton, since from the very large part of our population who are now directly or indirectly dependent upon its manufacture, a short crop of cotton in the United States is become to us almost as great a national calamity as a deficient harvest at home.

I have therefore always taken a deep interest in the attempt to extend the cultivation of cotton in Africa, and I should have wished measures to be adopted to promote it by your Administration, had I not been persuaded that, as a general rule, the direct interference of a Government to encourage any branch of industry is injurious. To open out new sources of production ought to be left to private enterprise, which a Government should only endeavour indirectly to assist, by maintaining security, and by diffusing information calculated to direct public attention to any unexplored but promising fields for industry which may exist. In this way we did all we could to encourage the growth of cotton in Africa. The Governors of our Settlements were directed to lose no opportunity of pointing out to the chiefs and traders with whom they were brought into contact, the advantages which might be derived from it; and in my personal communications with the leading merchants, I availed myself of all suitable occasions for making similar suggestions. I hope this may have in some degree contributed towards rousing that greater attention, which, I trust,

is now beginning to be shown to this important subject in all our Settlements in Western Africa; and that our merchants will now seriously take up a business which, if pursued with energy and judgement, affords, I believe, an unusual prospect of producing at once great public advantages, and large gains to those by whose enterprise such a branch of industry may be established.

Sierra Leone is the most considerable of the British Possessions on the west coast of Africa, in respect of the number of British subjects (in the strict sense of the word) by whom it is inhabited. But comparing its actual condition with the length of time that has elapsed since the Colony was established, and with the very large amount of the expenditure which for many years was incurred there by this Country, I fear it must be admitted to have disappointed the expectations of its philanthropic founders. Its comparative want of success would not, I think, be difficult to explain, if this were a fitting occasion for pointing out the faults, which seem to me to have been committed, in its early management; but as this topic does not come within the circle of those with which I am engaged, I will merely repeat the expression of my opinion, that the too great readiness of Parliament in meeting the demands made upon its liberality, on account of this Colony in its earlier days, had an opposite effect on its real prosperity from that which was expected. For a good many years, however, the expenditure of this Country at Sierra

Leone has been brought within moderate bounds. The Parliamentary grant for the civil establishment for 1851 was only £4465, exclusive of the cost of the Liberated African Department, amounting to £3545, —a charge arising from the measures adopted for the suppression of the Slave-trade.

During your Administration the chief subject connected with Sierra Leone, that required our attention, was the state of its finances; at one time they were in an exceedingly unsatisfactory condition, nor was it without much trouble that they were restored to order. In connection with them I ought to mention, that here also the experiment of direct taxation upon an uncivilized population has been tried, in the form of a house and land tax; but there was so much delay on the part of the local Government, in passing the ordinance for this purpose, and in amending that originally passed, which was in the first instance very defective, that the law, as finally adopted, did not come into operation until the 1st of January, 1852; and I have no information as to its effects, except that, in the Governor's Annual Report, dated the 26th of June last, I observe it to be stated, that this tax "has been prolific beyond his most sanguine expectations, and promises to be a most fruitful source of revenue."

Before I pass from the subject of our Settlements in Western Africa, I will only say of them generally, that their actual condition seems to be such as to warrant the belief, that this Country is destined at length to

see the fruit of the persevering efforts it has so long made to render these Settlements the means of diffusing Christianity, civilization, and commerce among the degraded inhabitants of that great continent. The first and really difficult steps, toward the accomplishment of this high and worthy object, have been gained, and there now remain no apparent obstacles of any magnitude, to the progress of improvement, which, by the favour of Providence, may henceforth be reasonably expected to proceed at a rate becoming continually faster, as each successive advance which is effected renders the next more easy. Nothing will, I believe, more powerfully contribute to this result than the establishment of the line of steam communication which has been lately opened between this Country and the various British Possessions and principal trading-ports on the west coast of Africa*. This arrangement, for which the contract had been concluded just before we left Office, is calculated, in my opinion, to contribute more than any other measure that could have been adopted, to the extension of African commerce and of African civilization.

The British Possessions in the Mediterranean (a-

* I take this opportunity of observing, that I have not noticed in the preceding Letters various measures which were adopted during your Administration for the extension of steam communication with our Colonies. I have abstained from doing so, because this branch of business is not conducted under the direction of the Secretary of State for the Colonies, but under that of the Treasury and Admiralty.

mong which, I have already observed that the Ionian Islands are not properly to be included) consist of the two important naval and military stations of Gibraltar and Malta. It does not enter into my plan to advert to what relates to them as such; but Malta, besides being a garrison and naval station, also contains a considerable and increasing population; its civil government is therefore a subject of importance.

When your Administration was formed, much uncasiness and dissatisfaction, if not positive discontent, prevailed among the inhabitants of Malta. It appeared to us, that one step towards the correction of this state of things would be to entrust the civil government to a person who, not being burdened with the command of the troops, might have more leisure to look closely into the state of its civil affairs, and ascertain what improvements were required in their management. Accordingly, on the resignation of Sir Patrick Stuart, I recommended Mr. More O'Ferrall to the Queen, for the appointment of Governor of Malta, for which he appeared to be well qualified, by his experience in Parliament and in the important offices he had held in the Government of this Country. The appointment of a Civil Governor, and the choice of Mr. More O'Ferrall for the office, answered their intended object, and gave so much satisfaction to the Maltese, that when he found it necessary to resign the government of the Island, after having held it between three and four years, a petition, very numerously and

most respectably signed, was addressed to the Queen, praying that his resignation might not be accepted. Mr. More O'Ferrall had well deserved this somewhat unusual mark of approbation from the Maltese. Although his administration was comparatively short, many valuable measures of reform were carried by him or with his assistance.

Of these, one of the most important was a change in the form of the Government, by which the Legislature was made partly elective. Although it has always been considered (as I think justly) that, in so important a garrison, the Crown ought to keep very extensive powers, so that in any time of danger its servants may have ample authority to adopt any measures of precaution which may be necessary, it was thought highly desirable to introduce the principle of representation in a modified form into the Government. Accordingly, after a good deal of correspondence with Mr. More O'Ferrall, a measure was arranged, by which we thought that this might be accomplished in a manner free from danger; and the Queen was advised to grant a commission to the Governor, by which a change in the constitution of the Government was effected, which seems to have given complete satisfaction to the great majority of the Maltese, and has hitherto worked exceedingly well.

During the administration of Mr. More O'Ferrall, various other useful measures were adopted. Arrange-

ments were made for improving the system of public education and of prison discipline. In the former, the system of National Education in Ireland was selected as a model for imitation; and in building a new prison and making rules for its management, the example of this Country in the improved modern prisons was also followed. The persons to whom the task of introducing these improvements was entrusted, were in both cases sent to this Country in order that they might make themselves acquainted by personal examination with the arrangements they were to follow. The police was also improved and increased; and the periods of quarantine on ships coming from suspected places were materially reduced; the Governor stating that he would have gone further in getting rid of this mischievous obstruction to the trade and mutual intercourse of the countries washed by the Mediterranean Sea, had he not found that the prejudices of the people on the subject were so strong that he could not have done more without creating much alarm and dissatisfaction*. Great additional facilities were likewise given to trade, by the construction of bonding stores, and particularly by a large increase in the means of storing corn and oil, of which Malta is becoming an important mart.

Various public works were also undertaken and executed, which, with the other measures of improvement I have mentioned, necessarily occasioned a con-

* See Blue Book Reports.

siderable expenditure. For this however Mr. More O'Ferrall was able to provide without the imposition of any new taxes; the public income was only increased by the growing productiveness of the old taxes, and by an augmentation of about £4000 a-year in the rents of Crown property, which was brought about by a new valuation, a measure of obvious justice and propriety. It was mainly by the exercise of a strict and judicious economy, that Mr. More O'Ferrall was able to accomplish so much without any further increase of the public income than that derived from the sources I have mentioned. The various public establishments were carefully revised, offices that could be dispensed with were abolished or consolidated with others, and, above all, a complete reform was effected in the mode of relief to the sick and destitute. A system of affording such relief had grown up, partaking somewhat of the character of that which formerly prevailed in the southern counties of England, and having the same demoralizing tendencies. This evil, which was becoming serious, Mr. More O'Ferrall effectually corrected by similar means to those which have been had recourse to in this Country,—namely, by providing for the grant of relief to the sick and destitute who require it, chiefly by admitting them to well regulated hospitals and workhouses. The pecuniary saving is by no means the most important part of the good effected by this reform. The result of the various measures I have thus slightly adverted to

has been that Malta has greatly prospered during the last few years, and is now, I believe, in a far more flourishing condition than at any former period.

I have now completed the review which I undertook of the affairs of the British Colonies from 1846 to 1852. I am aware that I have very imperfectly executed this task, the difficulty of which has proved greater than I had anticipated, and has been increased by the rules I have thought it right to observe as to the sources of information of which I was at liberty to avail myself, and as to the reserve which ought to be maintained in writing upon such subjects as those with which I have had to deal. The information I have used is only that which is accessible to the public, and for the most part it has been drawn from the voluminous Papers which have been laid before Parliament, and the records of its proceedings, or from those of the Colonial Legislatures; but I have also to some extent availed myself both of our own and of the Colonial newspapers, though of course I have not placed the same reliance upon them as upon official documents. Of the latter, I have thought it my duty carefully to abstain from referring to any which have not in some way or other been made public. In like manner, I have refrained from giving any account of the reasons which led to the adoption of various measures by the Government, except when

these have been stated either in the debates in Parliament or in public documents, or when they are clearly shown by the measures themselves. Of my own individual opinions, and of the considerations which weighed most with myself, I have felt justified in speaking somewhat more freely.

My adherence to the rule I have laid down, with respect to the information I was to use, has debarred me from entering as fully as I could have wished into some matters of importance; and still greater restraint has been imposed upon me, by my determination not to say anything or to urge any arguments which could have a tendency, so far as I can judge, to create any real public inconvenience. I do not mean that the caution I have observed has been carried so far as to prevent its being probable that what I have said may revive the recollection of some angry discussions, and that arguments which I have used may perhaps give offence to some persons; but within certain limits I cannot for my own part see any objection to this: it is only by free discussion that truth can be elicited, and the most important public principles established. A retrospect of public affairs, necessarily implies that the conduct of those who have taken part in them should be made the subject of comment, which cannot always be of a favourable character; and it is for the general interest, that these matters should be canvassed without unnecessary restraint. It tends to keep up a due sense of their responsibility in the minds of those who are engaged in the exciting scenes of political life,

that they should know that all they may do is liable to be reviewed and discussed when time and the results of their acts shall have thrown a light on their real character. I make no apology therefore for having spoken freely of men and things, and I trust I have said nothing calculated to excite animosities or embitter controversies of a dangerous character. It certainly has been my most anxious desire to avoid doing so; and whenever it has appeared to me that injury could be occasioned to public interests by touching on matters to which, in defence of our measures, it would have been desirable to advert, I have never hesitated to leave our vindication incomplete, rather than risk any damage to the Public. If I am not mistaken, you will easily detect more than one omission in these Letters, which has been dictated by this motive for reserve.

I trust however that the result of my review of Colonial affairs will not appear upon the whole unsatisfactory to those who will impartially consider the subject and the difficulties with which we have had to struggle. No doubt during the five years and a half of your government, while these affairs were under my immediate superintendence, mistakes were committed. Looking back, with the advantage of the experience we have gained, and judging of our measures by their results, I can see many things which might have been better done than they were. Knowing what the pressure of public business is in this Country; the degree to which the attention of those

who conduct it cannot fail to be distracted by the variety of different subjects which must day by day be considered and dealt with, the important decisions which must be come to with little time for deliberation, and often with a great difficulty in obtaining correct information,—he must indeed be a sanguine man who can expect, that any of the great departments of the State can ever be conducted without many and serious mistakes being committed; and perhaps there is no department of the Government where there is the same difficulty in avoiding such mistakes as in that of the Colonies.

But while I freely admit that errors have been committed, I am prepared to maintain that, in the administration of the Colonies during the years of which I have been speaking, those views of Colonial policy which in my first Letter I have endeavoured to explain, and of the correctness of which I am more than ever satisfied, have been steadily and consistently acted upon to the best of our judgement; every measure taken by us was decided upon with a strict regard to the principles which governed our whole policy, and, what is more, every appointment was guided by a consideration of fitness for the public service.

Let me add, with regard to the results of our policy, —for after all it must be judged by its fruits,—that, taking our Colonial Empire as a whole, I greatly doubt whether any other period of equal length can be pointed out in our history in which that Empire has prospered so much, and has made such large

strides towards future greatness, as during the years of which I have been speaking. There has certainly been no similar period during which, in spite of all the difficulties that have been encountered, the advance has been greater. The facts and statistics which I have quoted, from official documents, enable me to make this assertion without fear of contradiction. With the single exception of the Cape, where we left, as we found, a distressing war going on, profound peace and internal tranquillity prevailed throughout the whole of our extensive Colonial Empire at the time of our quitting Office. A commercial revolution deeply affecting the interests of many of our most important Colonies has been safely passed through, not it is true without much distress and loss to individuals, which I deeply lament, but with great advantage to the permanent welfare of these Colonies and of the Mother-country; and, except where our measures have been thwarted by the opposition to the new commercial policy, the difficulties inseparable from so great a change have been nearly surmounted. Various important and difficult questions, touching both the internal government of the Colonies and their relations with the Mother-country, have been happily settled; and in almost all the Colonies a great reduction of the charges they impose on the British Treasury has been effected, and principles have been established, and rules laid down, which, if they shall continue to be acted upon, must lead to still larger and early reductions of our expenditure. The burden

of taxation has also been diminished, and the state of the finances at the same time improved, in the Colonies where the most direct authority is exercised by the Crown. Finally, while the principle of leaving to the Colonists the management of their own affairs has been carried further than at any former period, this has been accomplished without disturbing any of the ancient landmarks which define the limits of the powers vested respectively in the Crown, the Imperial Parliament, and the Colonial Legislatures. I may be deceived, but to this maintenance of the long-established boundaries of these different authorities I attach the highest importance. If, in deference to the popular doctrines of the day, an attempt had been made, or should hereafter be so, to meet the natural desire of the most advanced of our Colonies to be exempted from undue interference on the part of the Imperial Government in their internal affairs,—not by a judiciously sparing exercise of what are still the acknowledged powers of the Crown and of Parliament, but by a formal surrender of the powers themselves,—I entertain a strong persuasion that such concessions, far from tending to avert future difficulties and disputes between the Parent State and her Dependencies, would have the very opposite effect, and would be too likely to lead to frequent and dangerous contests of authority, and ultimately, by a few short and easy steps, to the severance of the tie which unites the fairest portions of our Colonial Empire to the British Crown. I know that some of those who

advocate the changes to which I allude are prepared for this result, if they do not regard its probability as an additional recommendation of the measures they propose; but I earnestly trust that such is not the view of this great question which is destined to gain acceptance with Parliament and with the Public. For my own part,—though, with the consequences of the American Revolution before my eyes, I certainly am not prepared to say that the loss of our Colonial Empire must necessarily be fatal to our national greatness and prosperity,—still I should regard such an event as a grievous calamity, and as lowering by many steps the rank of this Country among the nations of the world. You, I am persuaded, will concur with me in this opinion, and will feel no less strongly than myself the desire that the great British Empire may to a long futurity be held together, and preserve its station among the principal Powers of the earth.

Yours very truly,

GREY.

December 27, 1852.

POSTSCRIPT.

I must add one or two additional observations on the subject of my Eighth Letter, in consequence of the determination you have announced, on the part of the new Government, to discontinue altogether the removal of convicts to the Australian Colonies as soon as the ships now chartered shall have been despatched. I confess I heard this announcement with much surprise and alarm. This alarm has not been diminished by the Duke of Newcastle's subsequent explanation, that transportation to Western Australia is still to be continued upon a small scale, and for a short time; but that, on the other hand, its cessation to Van Diemen's Land is to be absolute and immediate, and that not even any ship already chartered is to be sent there. The intention of the late Government to stop transportation to Van Diemen's Land did not surprise me. Judging from the information before the public, I did not approve of that course; but there may probably have been reasons for it of which I am not aware, and, upon the whole, little harm might have been done by the measure, if carried into execution with due time for preparation, and in a proper manner. It would indeed,

I am persuaded, have inflicted a heavy blow on the rising prosperity of Van Diemen's Land; but if so, the inhabitants of that Colony would have had only themselves to blame for it. On the other hand, the lesson which would have been thus gained would not have been without its value, while, by incurring some additional expense, and not making the change too suddenly, it would have been practicable to find the means of disposing elsewhere of the convicts who would otherwise have gone to Van Diemen's Land.

These precautions, if I rightly understood the intimation conveyed in Her Majesty's Speech from the Throne, and the subsequent explanations of Sir John Pakington, were not to have been neglected, and it was intended that time should be taken for preparing and completing the intended new arrangements before those now in force were discontinued. But we are now told that the removal of convicts to Van Diemen's Land is to cease at once, and that it is not to be continued for more than a short time to any of the Australian Colonies. This involves an entire change in the present system of secondary punishment; and I am altogether at a loss to understand how the new arrangements which will in consequence be necessary can be matured with due care and deliberation, and how they can be submitted to the judgement of Parliament in the very short time that will be allowed for the purpose. What is to become of the large number of convicts now undergoing their preliminary punishment, and to whom an express promise has been made that

by good conduct they would obtain tickets-of-leave in the Colonies at an early period? There cannot be less, I apprehend, than from two to three hundred men monthly becoming entitled to this boon for the next two years, and it will be a difficult question to determine what is to be done with them. Faith cannot, of course, be broken with these men by detaining them at Portland, or any other of our penal establishments, beyond the time at which they have a right, under the regulations printed for their information, to look for their release from the forced labour there imposed upon them. But if the Australian Colonies are to be closed against them, I am not aware of any other place to which they can be sent; and I am quite certain there is no part of the British dominions in which it is possible to make arrangements for receiving them with tickets-of-leave in the time within which some mode of disposing of them must be discovered. To send them abroad as exiles would probably be equally difficult, and would be merely recurring to our original plan, which was given up because it was found not to answer.

Are they then, as a substitute for the tickets-of-leave they have been promised in the Colonies, to be allowed their discharge in this Country? and is the ultimate removal from their native country, of criminals sentenced to transportation, to cease in future to be an essential part of their punishment? If this is what is intended, I am compelled to express my opinion, that so momentous a change in what has been our policy

for near two hundred years, ought not to have been decided upon without the previous concurrence of Parliament. So far as it has yet been expressed, the judgement of Parliament has been decidedly adverse to doing away with the punishment of transportation. I have mentioned in my Eighth Letter the opinion expressed in 1847 by the Committee of the House of Lords, after examining the judges and many persons of great experience in the administration of our criminal law. I have also mentioned that, in 1841, an address to the Crown was voted by the House of Commons against the Government of that day, objecting to the detention in this Country of convicts sentenced to transportation. None of the motions made during your own Administration, for obtaining a contrary opinion from the same House, obtained any considerable support. Looking further back, even the Committee which, in 1838, condemned the former system of transportation, did not fail to recognize the advantage, if not the necessity, of the ultimate removal of convicts from our shores.

Such has been the judgement hitherto pronounced by Parliament on this subject; and I am persuaded that there is not a magistrate who has any experience of the administration of the criminal law, especially in the rural districts, who will not express a strong opinion as to the great advantage of not allowing men who have been convicted of serious crimes to return to their former homes. In country villages the occasional return of such men is almost invariably attended with

bad effects. They cannot, for the reasons which have been so often explained, find the means of maintaining themselves honestly. They are driven to resume their former bad habits; and in the spirit of bravado which is so general among criminals, they make light of the punishment they have undergone, and thus destroy the wholesome terror of the law in the minds of the least steady of the young men of their neighbourhood, whom they instruct in all the arts and practices of criminals.

If this happens now, when only a small percentage of criminals sentenced to transportation ever return to their homes, what will be the consequence when some two or three thousand men, who under the existing system would be permanently removed from the United Kingdom, are to be annually turned loose on society?

It is with sincere regret that I make these remarks upon one of the first measures announced by an Administration which I am exceedingly anxious to support, so far as my duty will permit me; but I consider so great a public interest to be involved in this question, that I could not with propriety abstain from declaring the opinion I entertain upon it, when the publication of these volumes affords me an opportunity of doing so.

G.

February 22, 1853.

APPENDIX.

A.

Copy of a Despatch from Governor Sir C. A. Fitzroy to Earl Grey.

"*Government House, Sydney, June* 18, 1851.

"My Lord,

"At the request of the Legislative Council of this Colony, I have the honour to forward an Address embodying a declaration and remonstrance against the New Constitution Act, 13 & 14 Vict., chap. 59.

"I have, etc.,

"C. A. Fitzroy."

"*Enclosure.*

"To his Excellency Sir Charles Augustus Fitzroy, Knight Companion of the Royal Hanoverian Guelphic Order, Captain-General and Governor-in-Chief of the territory of New South Wales and its dependencies, and Vice-Admiral of the same, etc., etc., etc.

"May it please your Excellency,—

"We, Her Majesty's most dutiful and loyal subjects the Members of the Legislative Council of New South Wales, in Council assembled, beg respectfully to forward to your Excellency, for transmission to the Right Honourable the Secretary of State for the Colonies, the following declaration and remonstrance against the New Constitution Act, 13 & 14 Vict., chap. 59, this day appointed by the Council.

"We, the Legislative Council of New South Wales, in Council assembled, feel it to be a duty which we owe to ourselves, to our constituents, and to posterity, before we

give place to the New Legislature established by the 13 & 14 Vict., chap. 59, to record our deep disappointment and dissatisfaction at the Constitution conferred by that Act on this Colony. After the reiterated reports, resolutions, addresses, and petitions which have proceeded from us during the whole course of our Legislative career, against the schedules appended to the 5 & 6 Vict., chap. 76, and the appropriations of our ordinary revenue under the sole authority of Parliament, against the administration of our waste lands and our territorial revenue thence arising, against the withholding of the Customs department from our control, against the dispensation of the patronage of the Colony at dictation of the Minister for the Colonies, and against the veto reserved and exercised by the same Minister, in the name of the Crown, in matters of local Legislation, we feel that we had a right to expect that these undoubted grievances would have been redressed by the 13 & 14 Vict., chap. 59, or that power to redress them would have been conferred on the constituent bodies thereby created, with the avowed intention of establishing an authority more competent than Parliament itself to frame suitable Constitutions for the whole group of the Australian Colonies. These our reasonable expectations have been utterly frustrated. The schedules, instead of being abolished, have been increased. The powers of altering the appropriations in these schedules, conferred on the Colonial Legislature by this new Act, limited as these powers are, have been in effect nullified by the subsequent instructions of the Colonial Minister*. The exploded fallacies of the Wakefield

* The following are the instructions adverted to; it will be seen how little they justify this assertion of the Legislative Council.

"The effect of Sections 13, 17, and 18, is to give the Legislature a considerably increased control over that part of the Colonial expenditure now charged on what is called the Civil List. The Le-

theory are still clung to; the pernicious Land Sales Act (5 & 6 Vict., chap. 36) is still enforced, and thousands of our fellow-subjects (in consequence of the undue price put by that mischievous and impolitic enactment upon our waste

gislatures will have the power to alter, by Acts passed for that purpose, all or any of the sums specified in the Schedules. In the case of these alterations affecting the salary of the Governor or the appropriation for public worship, it is required by the present Act of Parliament that the Colonial Acts should be reserved for the signification of Her Majesty's pleasure.

* * * *

"It has been deemed right by Parliament, in order more completely to maintain the independence of the Judges of the Supreme Court, to provide that no diminution of Judicial salaries, by Colonial enactments, shall affect Judges appointed previously to the passing of such enactment.

"All other salaries, except those of the Governor and Judges, are placed by Parliament under the ordinary control of the Legislature. With regard to the mode of exercising this control, you will however observe that reductions of fixed establishments, or of any expenditure provided for by permanent laws, can only be effected by Acts of the Legislature, which of course require the assent of the Crown, signified by yourself, and confirmed by Her Majesty; but I wish you distinctly to understand, that there is no desire on the part of Her Majesty's Government to prevent prospective reductions of charges which, in the opinion of the Colonists, will safely admit of being diminished. The interests of existing office-holders must be protected, because they accepted those offices with expectations which cannot justly be disappointed. But, subject to these interests, there is no objection to the Legislature fixing whatever scale of emoluments they may think fit for public servants to be hereafter appointed. I should, for my own part, consider it highly injudicious to reduce the salary of an office, so as to render it no longer an object of ambition to men of ability and respectable station. But this is a matter in which the interests of the Colonists only are involved, as they will be the sufferers from any failure to provide adequate remuneration for those by whom the public service is carried on; the determination therefore of what is sufficient must be left to the

lands, in defiance of the precedents of the United States, of Canada and the other North American Colonies, and even of the neighbouring Colony of the Cape of Good Hope) are annually diverted from our shores, and thus forced, against their will, to seek a home for themselves and their children in the backwoods of America. Nor is this all. Our territorial revenue, diminished as it is by this most mistaken policy, is in a great measure confined to the introduction among us of people unsuited to our wants, and in many instances the outpourings of the poor-houses and unions of the United Kingdom, instead of being applied in directing to this Colony a stream of vigorous and efficient labour, calculated to elevate the character of our industrial population. The bestowal of office among us, with but partial exception, is still exercised by or at the nomination of the Colonial Minister, and without any re-

Legislatures, with whom will rest the responsibility for the judicious exercise of the power.

"I consider it however absolutely essential that, whatever may be the rate of payment, the salaries of all the principal officers of the Government should, for the reasons stated in the Report of the Committee of the Privy Council, be permanently granted; that is, not voted from year to year, but provided for in the same manner as charges on the Consolidated Fund in this country, by Acts, and therefore only susceptible of alteration by Acts of the Legislature passed in the ordinary manner, with the consent of the Crown. You will therefore understand that you are not at liberty to give the assent of the Crown to any Act which may be passed, reducing the salaries of those who are now in the public service, or rendering dependent on annual votes any of the charges now provided for by permanent appropriation. Any Acts of this sort you will reserve for the signification of Her Majesty's pleasure, unless you consider them so manifestly objectionable as to call for their rejection. Subject to this restriction you are authorized to exercise your own judgement in giving or withholding your assent from Acts for the reduction of the fixed charges on the Colonial revenue."

ference to the just claims of the Colonists, as if the Colony itself were but the fief of that Minister. The salaries of the officers of the customs, and all other departments of Government included in the schedules, are placed beyond our control; and the only result of this new enactment, introduced into Parliament by the Prime Minister himself with the declared intention of conferring upon us enlarged powers of self-government, and treating us at last as an integral portion of the Empire, is that all the material powers exercised for centuries by the House of Commons are still withheld from us; that our loyalty, and desire for the maintenance of order and good government, are so far distrusted that we are not permitted to vote our own Civil List, lest it might prove inadequate to the requirements of the public service; that our waste lands and our territorial revenue, for which Her Majesty is but a trustee, instead of being spontaneously surrendered, as the equivalent for such Civil List, is still reserved, to the great detriment of all classes of Her Majesty's subjects, in order to swell the patronage and power of the Ministers of the Crown; that whilst, in defiance of the Declaratory Act (18 George III., chap. 12, sect. 1), which has hitherto been considered the Magna Charta of the representative rights of all the British plantations, a large amount of our public revenue is thus levied and appropriated by the authority of Parliament, we have not even the consolation of seeing that portion of it which is applied to the payment of the salaries of our public officers distributed, as it ought to be, among the settled inhabitants; and that, as a fit climax to this system of misrule, we are not allowed to exercise the most ordinary legislation which is not subject to the veto of the Colonial Minister.

"Thus circumstanced, we feel that, on the eve of the

dissolution of this Council, and as the closing act of our legislative existence, no other course is open to us but to enter on our own journals our declaration, protest, and remonstrance, as well against the Act of Parliament itself (13 & 14 Vict., chap. 59) as against the instructions of the Minister by which the small power of retrenchment that Act confers on the Colonial Legislature has been thus overridden, and to bequeath the redress of the grievances which we have been unable to effect by constitutional means to the Legislative Council by which we are about to be succeeded.

"We, the Legislative Council of New South Wales, do accordingly hereby solemnly protest, insist, and declare as follows:—

"1st. That the Imperial Parliament has not, nor of right ought to have, any power to tax the people of this Colony, or to appropriate any of the moneys levied by authority of the Colonial Legislature; that this power can only be lawfully exercised by the Colonial Legislature; and that the Imperial Parliament has solemnly disclaimed this power by 18 Geo. III., chap. 12, sect. 1, which Act remains unrepealed.

"2nd. That the revenue arising from the public lands, derived as it is 'mainly' from the value imparted to them by the labour and capital of the people of this Colony, is as much their property as the ordinary revenue, and ought therefore to be subject only to the like control and appropriation.

"3rd. That the Customs and all other departments should be subject to the direct supervision and control of the Colonial Legislature, which should have the appropriation of the gross revenues of the Colony, from whatever source arising, and, as a necessary incident to

this authority, the regulation of the salaries of all Colonial officers.

"4th. That offices of trust and emolument should be conferred only on the settled inhabitants, the office of Governor alone excepted; that this officer should be appointed and paid by the Crown; and that the whole patronage of the Colony should be vested in him and the Executive Council, unfettered by instructions from the Minister for the Colonies.

"5th. That plenary powers of legislation should be conferred upon and exercised by the Colonial Legislature for the time being, and that no Bills should be reserved for the signification of Her Majesty's pleasure, unless they affect the prerogatives of the Crown, or the general interests of the Empire.

"Solemnly protesting against these wrongs, and declaring and insisting upon these our undoubted rights, we leave the redress of the one and the assertion of the other to the people whom we represent, and the Legislature which shall follow us.

"(Signed) CHARLES NICHOLSON,
Speaker.

"*Legislative Council Chamber, Sydney,*
"*May* 1, 1851."

Copy of a Despatch from Earl Grey to Sir C. A. Fitzroy.

"*Downing-street, January* 23, 1852.

"SIR,

"I have to acknowledge your Despatch, No. 105, of the 18th of June last, enclosing an address from the late Legislative Council of New South Wales, embodying a declaration and remonstrance against the Constitutional Act,

13th and 14th Vict., chap. 59. The same document had reached me a short time before, with a letter from the Speaker of the Council.

"It cannot be otherwise than a subject of regret to me, that the Council should have entertained so much objection to different provisions of that measure, and should have thought it necessary to declare those objections in this formal shape before separating for the last time. But I must be permitted to doubt whether this remonstrance accurately expresses the feeling of the community.

"For it is certain that Her Majesty's Government, in framing this measure, took as much pains as was in their power to make themselves acquainted with and to consult the feelings as well as wants of the Colonists, and had every reason to believe that they had succeeded in doing so; for the Report of the Committee of Privy Council, which was closely followed in the Bill they submitted to Parliament, was received in New South Wales with very general expressions of satisfaction.

"In the Port Philip district, which was chiefly affected by the proposed Bill, that satisfaction was expressed in the strongest manner: and in the remainder of the Colony likewise public opinion, from such evidence as could be collected here, appeared decidedly favourable to it. I do not mean to say that there were not differences of opinion as to some of the proposed provisions. Such differences are unavoidable on political subjects of great interest, but assuredly there was no token of that deep disappointment and dissatisfaction which the Council now expresses.

"The Act, therefore, which embodies the recommendations of that Report thus favourably received, from which it only slightly varies, and not, I believe, in any of those

particulars to which the objections now taken by the Council relate, can hardly be supposed to be unacceptable to the Colonists. If indeed the institutions created by it had been tried and found insufficient—if any of its provisions had been found oppressive or impracticable,—then it would be perfectly natural that those whose anticipations had been favourable should profess themselves disappointed. But it had not been tried at all; and I am therefore entitled rather to suppose that this declaration of the Legislative Council does not, as I have said, accurately represent public feeling, than that public feeling has thus changed without a motive.

"I feel however that too much weight is due to the authority of that body, which has now separated for the last time, after conducting the legislative affairs of the Colony down to the period of its separation, to admit of my receiving a remonstrance from them condemning so strongly what has been done by Her Majesty's Government, or rather by the Imperial Parliament, without recording fully the grounds on which I think myself entitled to deny the justice of their objections to the measure which has called forth their censure.

"And for this purpose I must repeat the declaration which Her Majesty's Government had frequent occasion to make when the Act was in contemplation, namely, that it did not purpose or profess to make a new constitution for New South Wales. Its primary object (as regarded that Colony) was the separation of Port Philip. Its further object was to accommodate the existing constitution to that separation. The changes made in that constitution were for the most part inconsiderable, and their effect was only to extend, in no one instance to curtail, existing rights. But there was one fundamental alteration, namely

that it gave (subject to certain conditions) to the two Legislatures the power which the former united one did not possess, of amending and altering, almost to the fullest extent, their own institutions. This, and this only, was the great constitutional change effected by the Act; and no allegation has as yet reached me that the powers thus conferred on the Legislature are likely to prove in any degree inadequate to the purposes of good government and progressive improvement.

"I must therefore regard the remonstrance, except in some points of detail, rather as a protest against the principles on which the Australian Provinces have hitherto been governed, and against some laws affecting those Colonies, which Parliament has thought fit to maintain, than against this particular Act.

"With regard to the schedules of expenditure, it is obvious on the face of the Act, that the powers of the new Legislatures over them will be considerably more extensive than those possessed by the old one. I am not aware to what particular expression of mine the Legislative Council refer, when they say these powers have been nullified by the subsequent instructions of the Colonial Minister. I stated in my despatch transmitting the Act, that it was essential that existing interests should be protected. To this I cannot suppose that the Legislative Council entertain any objection. The declaration was made out of regard to the natural apprehensions of those who were to be rendered more dependent on the votes of the Legislature than heretofore, and not from any expectation so injurious to the Legislature as that such a restriction would be distasteful. I referred further to the opinion of the Committee of the Privy Council, that the salaries of the principal officers ought to be permanently granted; and if this is the restric-

tion complained of, I cannot do otherwise than repeat my agreement in that opinion. It was the conviction that the maintenance of this principle is very essential to the success of constitutional government at its outset, and not any wish to secure particular sums for particular services, which mainly induced Parliament to preserve this portion of the former constitution of New South Wales, subject to the increased power of alteration conferred on the Legislature.

"The Legislative Council, if I understand them rightly, allege that the maintenance of these schedules involves a violation of the declaratory Act, 18 George III., chap. 12; an objection which, as far as I am aware, is for the first time urged against them. It might be sufficient to answer, that the Act in question refers in terms only to the imposition of taxes by the Imperial Legislature, and the appropriation of the produce of taxes so imposed. But it is more important to observe that the Act of George III. neither declares, nor was intended to declare, anything beyond the renunciation by Parliament of any right to interfere with chartered Provincial Legislatures. The constitution of New South Wales is itself created by Act of Parliament superseding that form of government which, under the peculiar circumstances of the Colony, it had been thought necessary to maintain until ten years ago; and Parliament, in creating such a constitution, had an unquestionable right to annex to the grant such conditions as it might think expedient.

"The administration of the waste lands is a subject which I should have preferred to consider independently of the Constitutional Act, with which it does not appear to me to have any very close connection; but as the Legislative Council have thought it right to introduce this topic into their remonstrance, I cannot do otherwise than advert to

what they have urged. And in doing so, it is my duty not to withhold the expression of my decided dissent from the doctrine that the waste lands in New South Wales, or the revenue derived from them, are in any reasonable sense the exclusive property of its inhabitants, or that their representatives ought to have as of right the control and disposal of that revenue.

"The waste lands of the vast Colonial possessions of the British Empire are held by the Crown as Trustee for the inhabitants of that Empire at large, and not for the inhabitants of the particular Provinces divided by arbitrary geographical limits in which any such waste lands happen to be situated. Otherwise this consequence would follow, that the first inhabitants of any of these vast Provinces (if possessing those representative institutions which arise as of right in ordinary British Colonies) are indefeasibly entitled to administer all the lands and land-revenue of the great unexplored tract called a province, of which they may occupy an extremity, wholly without regard to the nation which has founded the settlement, perhaps at great expense, in order to serve as a home for her own emigrants and a market for her own industry.

"For the right thus defined and claimed by the Legislative Council, if their expressions were to be strictly taken, would belong as fully to the 4000 inhabitants of Western Australia as to the 200,000 of New South Wales; nay, would have equally belonged to the first few families which settled in a corner of New Zealand, and would entitle each small community, from the first day of its planting, to the ownership of tracts sufficient to maintain empires.

"When and on what conditions it may be desirable to transfer the control of the waste lands of a Colony to its local Legislature, is in my belief a question of expediency

and not of right: of expediency respectively both to the local community and to the people of the Empire at large, whose claims require joint consideration of mutual adjustment. And I consider that of the Australian waste lands, —lands to which I must add that their present value has been mainly given through the expenditure incurred by this country in founding, maintaining, and defending the several settlements,—to be for the present wisely as well as rightfully vested in the general Government, under the strict rules imposed by Parliament.

"But while such are my views as to the right under which this revenue is administered, I willingly acknowledge that it is one most essential duty of those who administer it, to regard in an especial manner the interests of those who have established themselves on the spot, and whose purchases afford the fund to be so disposed of; and I believe this object to be attained in a high degree by the existing arrangement.

"It will be remembered that the Waste Lands Act, now termed 'pernicious,' was adopted on the recommendation of a Committee of the House of Commons, by which the whole subject was investigated with the utmost care. The object of this Act was to give permanence and more complete effect to a course of policy regarding those lands, which had been already adopted to some extent in the beginning of 1831 by the Executive Government. From the adoption of that policy may be dated the extraordinary, and I believe unparalleled advance which the Colony has made in wealth and prosperity.

"Such being the circumstances under which Parliament has thought fit to entrust to the Crown the expenditure of the territorial revenue in the Australian Colonies, with the obligation of applying not less than one-half of the net

receipts from the sale of land to emigration from the United Kingdom, it is to me a subject equally of surprise and regret that the Council should have seen reason to express the opinion, that the duty thus imposed on the advisers of the Crown has been so ill performed as to warrant the assertion, that the use of the territorial revenue had been in great measure confined to the introduction of people unsuited to the wants of the Colony, and in many instances the outpourings of the poor-houses and unions of the United Kingdom. The view thus communicated to me is certainly inconsistent with the detailed information which has been furnished respecting the successive emigrant ships as they reached Australia, and with the general opinions previously transmitted from all the Colonies to which emigrants have been sent.

"Emigration to New South Wales by means of public funds having been resumed in the year 1847, no fewer than 31,400 persons had been sent out to this one Colony since that time by the Emigration Commissioners at the date when they made their last annual Report, on the 2nd of May, 1851; and any one who consults the detailed reports which have been made respecting these emigrants on their reaching the Colony, and which are republished in the annual reports of the Emigration Commissioners, may easily see how small, amidst this great multitude, is the proportion of persons of whom there has been any serious complaint. Nor have there been wanting general testimonials of a gratifying nature to the satisfaction felt with the character of the emigrants selected and sent out by the Emigration Commissioners.

"The only part of this emigration against which any decidedly unfavourable opinion was expressed, was that which was called 'Assisted Emigration.' But this mode

of promoting emigration was adopted, contrary to my own opinion and that of the Emigration Commissioners, in deference to the urgent representations of gentlemen who were supposed to enjoy the confidence of the Colonists, and more especially of one to whom the Legislative Council had granted a salary for his services as agent for the Colony, and who was therefore entitled to be listened to with attention when he urged on its behalf that the plan to which I have adverted should be adopted. For this reason, and because in carrying on a service of so comprehensive a character, and comparatively so recent an origin, as emigration, I have always thought it right not to refuse a fair trial to any reasonable project, advocated by gentlemen interested in the supply of labour to the Colony, I gave directions to the Emigration Commissioners to try, as an experiment, and with great caution, the plan of what has been called Assisted Emigration. At Sydney (at Melbourne a different opinion was entertained) the experiment was considered to have failed, and it was therefore immediately discontinued.

"But setting aside this experimental measure, I am fully justified in asserting, that all the reports as to the emigrants made at the time of their arrival tend to establish the conclusion, that the arduous undertaking of collecting and conveying to Australia so large a body of people from all parts of the United Kingdom has been conducted in a manner highly advantageous to the Colony, and creditable to the Board by which it was conducted. I must add, that the reports which support this conclusion were made by persons who have shown themselves vigilant in detecting, and prompt in exposing, those cases of abuse which it was impossible to expect should not occasionally occur in conducting emigration on so large a scale; nor can there be

any doubt that these reports expressed what was the general opinion of the settlers at the time.

"The Council further declare, that the Customs and all other departments should be subject to the direct supervision and control of the Colonial Legislature, which should have the appropriation of the gross revenues of the Colony from whatever source arising.

"I have no wish to controvert the assertion that the Colonial Legislature ought to be enabled to exercise a superintendence, and in one sense a control, over the administration of the Customs, as of other departments of the public service; but I have to point out that the power to exercise a superintendence over the Customs department has already been in effect conferred upon the Legislative Council by my circular despatch of the 8th of August, 1850, which the Legislative Council, in framing the remonstrance, seem to have entirely overlooked. By that despatch the management of the Customs department, which had formerly been retained in their own hands by the Lords Commissioners of the Treasury (as was necessary while the former Navigation Laws were in force), has been entrusted to the local Government, subject to the same conditions as other branches of the public service. That Government has ever shown a perfect readiness to communicate to the Legislative Council the most ample information as to the manner in which the administration is conducted; and thus the people of New South Wales, through their representatives, possess the same power with their fellow-subjects at home of interfering to correct any abuse or mismanagement which may occur in the conduct of their affairs, by advice or remonstrance addressed to the Crown, or the Governor by whom the Crown is represented. No more direct control than this over the Customs depart-

ment could be given to the Legislative Council of New South Wales, without violating those important constitutional principles as to the strict separation of the executive from legislative functions, which in this country it has always been considered expedient to maintain.

"With regard to the claim that the gross instead of the nett revenue derived from customs should be placed at the disposal of the Legislature, I have to observe, that in this respect the law of New South Wales is precisely the same with that which has always existed in this country, where the Crown has always had the power of paying, out of the gross revenue, the expenses of collection, and the salaries of the officers employed in it. I believe this practice to be that best calculated to ensure an efficient performance of this important branch of the public business; and, coupled with the rule that full information as to the details of the expenditure incurred shall, when called for, be laid before the Legislatures, it affords also, in my judgement, ample security against abuse. At all events, it can hardly be considered that there is any grievance to be complained of in this matter, when the Legislative Council is placed with regard to it precisely on the same footing with the Imperial Parliament.

"On the subject of official appointments, it is impossible for Her Majesty's Government to recognize, on the part of the inhabitants of New South Wales, any monopoly of a right to such situations, so as to preclude them from being bestowed on others of Her Majesty's subjects. The inhabitants of New South Wales are not considered disqualified from receiving similar appointments either in other colonies or at home: nor would anything be more injurious to the general interests of the British Empire, than to lay down a rule by which it should be broken up into a number of

small communities, the members of each of which should be considered as only admissible to employment in that to which they more immediately belonged.

"But while the principle of regarding all Her Majesty's subjects as admissible to office in New South Wales cannot be abandoned, there has assuredly been no practical grievance inflicted in this respect on the inhabitants of the Colony, since for several years past public employments there have, with scarcely an exception, been filled by persons selected by the Governor, whose nominations have been almost invariably approved by the Secretary of State; and I consider it of great importance to the interests of the Colony, as tending to secure a good selection of persons for such employments, that the existing rule should be maintained, by which the Governor is required to report his appointments, and receive Her Majesty's confirmation of them, if they are to offices exceeding a certain value.

"With regard to the last clause of the protest, which claims what are termed plenary powers for the local Legislature, it is scarcely necessary to remark, that although the Council naturally confine their declaration to the case of the province which they have represented, it is impossible for me to notice it in answer, except as applying generally to the colonial possessions of the British Crown. For the constitutional rule or principle, against which protest is here made, is equally in force in every Colony, from the comparatively old and numerous communities in North America down to the smallest settlement enjoying a separate Legislature. It could scarcely be altered in one Colony without a general change of system, and the introduction of so vast a change would require far more practical and pressing grounds to justify it than what I must term a theoretical prefcrence of some different and untried scheme.

"It is not denied that the Governor of a Colony, as representing the Crown, must necessarily be a party to all legislation; and there would be obvious objections to placing in the hands of even the ablest Governor the power of binding the Crown by his acceptance of Acts in necessary ignorance of the views which the Crown, through its advisers, charged with the superintendence of the general interests of the Empire, may entertain. This I believe to be the main ground on which this power has been generally retained and exercised by the Crown, from the earliest periods of Colonial history; nor does it seem to me that it could be abandoned with safety to the permanence of the connection between the Mother-country and her Colonies.

"I am satisfied, at all events, that they are doing little service to the cause of good government who urge the adoption of a change of such magnitude as this, unless they are prepared with a well-considered substitute for the system which they propose to abandon. I am aware of no substitute having been prepared which, in my opinion, answers this description. The only one which I have seen suggested, and to which I believe the Legislative Council to refer, though I am not certain of their meaning, is this, that subjects of legislation should be divided into local and Imperial; that on the former the Governor should give or withhold the Royal assent, without further confirmation from the Crown; that on the latter, the local Legislature should have no power at all; its acts, or any portions of them, affecting these subjects being absolutely null and void; and the heads so reserved are of course numerous, including amongst others the very extensive one of the prerogative of the Crown.

"I am unwilling to enter on a subject merely controversial, and which is not fully placed before me with the

arguments of those who advocate the innovation. But I cannot refrain from observing on the practical inconvenience which would seem necessarily to attend a system under which large subjects, and many of them very difficult to define, would be absolutely withdrawn from the power of the local Legislature; so that they would be at once unable to legislate at all on many matters on which it is most desirable that they should legislate, subject to the control of the Crown, and at the same time under constant uncertainty whether Acts passed with strictly constitutional intentions might not be invalid through some inadvertent infringement of the limits of their authority,—limits which could ultimately only be defined and preserved through the uncertain process of judicial interposition in courts of law. I say nothing of the extreme difficulty of constituting a tribunal fit to judge of the validity of such Acts, or the certainty that its decisions would soon be felt as far greater hardships than the refusal of the Crown through its Ministers to allow an Act, which refusal further consideration may at all times change or modify.

"If indeed this power of the Crown were complained of as practically a grievance, the representations of the Council would have great additional weight. But no such complaint appears to be made, nor do I see how it could be. From the information afforded by the records of this Office, it seems that not more than seven Acts of the Legislature of New South Wales have been disallowed since the commencement of representative institutions, and about the same number returned for the insertion of amendments before Her Majesty's confirmation could be given; and of the trifling number thus interfered with, nearly all were in the first three Sessions, when the experiment was new, several were obviously such Acts as the local Legislature,

under the purposed division of subjects to which I have above adverted, would have had no right to pass at all.

"On the other hand, a very slight examination of the Acts, more than two hundred in number, which have received the Royal confirmation, will probably show that many of them would have been either wholly or partially in excess of like powers of the Legislature, and absolutely void, if such a division of authorities had existed. And this shows the practical convenience of the law as it now stands; for the Council of New South Wales has legislated, and will continue to legislate, without hindrance, on many subjects either of Imperial cognizance, or touching the prerogative, to the great advantage of the community; because the interests of the Crown and the Empire are sufficiently guarded by the power of disallowance possessed by the Crown, rarely as it is found necessary to exercise it.

"I have thus explained to you the views of Her Majesty's Government on all the principal heads of the declaration of the late Legislative Council; and I trust that, however this explanation may be received by those who, as members of that body, adopted the declaration, their constituents will be more disposed to weigh the considerations here advanced, and to endeavour to the best of their power to mitigate the opposition of opinions, and conciliate jarring interests, than to adopt, without demur, the sweeping conclusions which that declaration advocates.

"At all events I feel certain, that on reflection they will acquit Her Majesty's Government of any intention to inflict on them a system of misrule and oppression. We have had the interests of the local community and of the Empire, which, rightly considered, are the same, solely in view; and to attribute to us other motives, would be as unjust as it would be on my part to impute the language of this

declaration, because I do not agree in it, to a spirit of faction or resentment. Whatever may be the censure in which the late Council may have thought fit to indulge towards myself, I cannot be guilty of such injustice towards them. Amidst the deep satisfaction with which I have watched of late years the extraordinary progress of New South Wales, in nearly all that constitutes the social and material welfare of a community, I have never ceased to appreciate the manner in which its Legislature has contributed to that advance by the zealous and constant discharge of its duty to its constituents; and it is my sincere hope that the now separate Legislatures, using with their best abilities the powers which the Act now under discussion has conferred on them, will follow in that course of improvement which their predecessors have marked out for them.

"I have, etc.,

(Signed) "GREY."

B.

Extract from Speech of Earl Grey in the House of Lords, June, 1852, on Second Reading of New Zealand Bill.

"EARL GREY said, that before adverting to the important political questions arising out of the Bill now under their Lordships' consideration, he thought it right to notice what had fallen from the noble Duke on the clauses having reference to the claims of the New Zealand Company. He certainly regretted that it was necessary to lay upon this rising Colony a charge such as that which was proposed by this Bill; but at the same time it was right that Parliament should do justice to the parties by whose exertions

and personal sacrifices the Colony had been created—without whom, in fact, there would be no Colony of New Zealand at all. Persons now found great fault with the New Zealand Company, and though he had never been a great admirer of that body, he must say that he thought the run now made against that Company was not less unjust and unmerited than the exaggerated credit which had been given them in the first instance. He had no doubt that the Company had been actuated throughout by the best motives; and, as evidence of their good intentions, he would remind their Lordships that the Directors had sacrificed large sums of their own money in the establishment of the Colony, for the repayment of which they had only the remote and distant prospect that was afforded by the arrangement proposed by this Bill. The fault to be found with the New Zealand Company was not that they committed any of the offences which the noble Duke imputed to them.

"The Duke of Newcastle: No, no!

"Earl Grey: The noble Duke disclaimed the intention of imputing any offence to them, but the statement of the noble Duke implied it. Their real fault was, that they had shown themselves deficient in worldly wisdom and prudence, in too readily adopting for their guide a very clever projector, whose talents could not be denied, but whose cleverness was not accompanied by other qualities quite as necessary to make him a safe and trustworthy guide. They did not display that judgement that might have been expected from them in conducting the great enterprise into which they had somewhat rashly entered. Perhaps that was the necessary consequence of the constitution of such a body; for unless some person took the lead, and became manager, he believed a company of which the affairs were conducted

by a Board of Directors without check or control was not likely to deal satisfactorily with matters of this kind. That the New Zealand Company had not succeeded was not very much to be wondered at, because the necessary expenses of founding new colonies in distant parts of the world were so great, that measures of this kind would never answer as a pecuniary speculation. Schemes of this kind had always been exceedingly attractive; but from the enterprises of the early adventurers who founded some of the present United States down to the present time, the result had invariably been the same; and however successful some of their attempts had been in creating flourishing colonies, they had uniformly proved ruinous as pecuniary speculations to the projectors. He was told that the Company with which his noble friend (Lord Lyttelton) near him was connected (the Canterbury Settlement), had within the last few days undergone the common lot of those schemes, and was obliged to acknowledge itself insolvent. Those who had attended to such matters must be well aware, that it was not one of the smallest difficulties of the Colonial Department to deal with the many proposals for the formation of new colonies. Sanguine projectors were continually putting forward schemes by which they confidently asserted that, without risk or expense to the public, valuable colonies might be established. Unfortunately the performance of such promises could not be ensured. Though projectors could found colonies, it was beyond their power to prevent their becoming a burden upon the country. In these days, if a body of Englishmen, sent out to a distant land, were exposed to the danger of starvation or destruction by savages, no Government or Parliament could allow such calamities to happen, or leave the settlers to their fate, because they had been sent out under an assurance that

the Colony would be self-supporting. Neither could the Government allow that a band of persons should place themselves on any piece of ground they selected, and without mercy shoot out of their way any of the native inhabitants that might oppose them. Hence it was absolutely necessary that the Government should exercise some control over the formation of new settlements, though there were many obvious reasons why this control should not be carried further than was absolutely required. He could best explain what he thought the proper course to be taken in such cases, by stating what had been done while he had the honour of holding the office of Secretary of State. When the establishment of the Canterbury Settlement was projected, he was told that a large sum of money would be provided by the projectors, and that they were ready to undertake the scheme at their own risk; and it was urged that the mere sanction of the Government, which was all that was asked, ought not to be withheld. He agreed that it ought not to be so. He did not fail very strongly to express his opinion to the projectors: he stated, that although the plan might possibly lead ultimately to the formation of a flourishing community, the result would greatly disappoint their expectations in a pecuniary point of view; that it was quite impossible that such a measure should go on with the large price they proposed to ask for land, making promises to the purchasers which they could not perform, and that they would involve themselves in losses, liabilities and difficulties without end. But he also stated at the time to the projectors, that, provided nothing was done which could in any way delude the public as to the real state of the case—if proper precautions were taken, and regulations were adopted to ensure the safety of the Colonists, and guard against abuse—if he were satisfied that

adequate securities were provided upon these points, and against any expense being brought upon the public—he should not consider it his duty on the part of the Government to make any objection to the scheme being undertaken at their own risk by that Company. This had appeared to him the proper course to be adopted, because though he felt convinced the scheme would disappoint the expectations of the founders, and that great individual losses might be sustained, still he had no doubt that a settlement would be formed which in the end would become a great and flourishing community, destined to spread the British name and the British language through a large extent of valuable territory; and he considered it no part of the duty of the Government, if these public advantages were to be obtained, to enforce on the projectors greater prudence in regard to their own individual interests. The result, it now seemed, had been precisely what he anticipated: a settlement which would, no doubt, become a very flourishing one had been founded, but great loss had, he understood, been sustained by the projectors; but no claim on the Government, by the Canterbury Association, was likely to arise from the failure of that project, for the relations between the Association and the Government were clearly defined in the first instance: they had not been allowed to enter upon the undertaking at all until they had satisfied the Government that the public interests at stake had been provided for; and care had been taken that, when they were allowed to proceed, no difficulty should be thrown in their way, so that they had not any grounds for saying that their failure—if failure it be—was in any way attributable to the conduct of Government or of Parliament, and therefore were entitled to ask for no pecuniary relief. If the same course had been taken with respect

to the New Zealand Company, and it were in the same position, the same remark would be applicable to them; but the circumstances were different, because in the first instance that Company had been permitted to enter upon its undertaking without the sanction of the Government, and without proper securities having been provided, and because afterwards having been permitted to send out the first settlers in a very irregular manner, their operations had been thwarted by the Government. Partly by measures adopted by the local authorities, partly by measures adopted by the Government at home, the Company was prevented from having such a chance of success as they otherwise would have had,—a fact that was clearly shown by the investigation of the Committee to whom the question had been referred. These circumstances were held to give a claim to the New Zealand Company, and though the project might have failed if they had never occurred, they undoubtedly left the projectors without the chance of success to which they were entitled, and it clearly appeared to him that it was the duty of the Government and of Parliament to place them in the situation they would have been in if they had no such grounds of complaint. The noble Earl opposite (the Earl of Derby), when Secretary of State for the Colonies, felt these claims so much, that before he left office he had made arrangements for in some degree assisting the New Zealand Company by means of a loan of money. When he (Earl Grey) came into office, he found the Company complaining that what had been done for them was very far from making up for the injury they had sustained by previous measures, and by the great delay they experienced in getting possession of the land. He felt that there was force in that complaint; that they were entitled to some further compensation, and that something

more should be done to enable them to try fairly the scheme to carry out which they were originally formed. Accordingly, the Government having settled what was the largest amount of money that Parliament should be recommended to advance, the matter was placed in the hands of his lamented friend the late Mr. Charles Buller, to consider what was the best arrangement, under existing circumstances, to enable the Company, with such assistance, fairly and fully to try whether their scheme was one capable of being successfully worked. A plan was accordingly prepared with great care by Mr. Buller, to whom, in concert with the New Zealand Company, it was entirely left to make what in his judgement was the best arrangement, subject only to two conditions, on which he (Earl Grey) specially guarded himself, namely, that the pecuniary assistance should not exceed a certain sum, and that the arrangement was to be a conclusive measure, and a discharge in full of all possible claims on the part of the New Zealand Company, whether it should succeed or fail. After much consideration, Mr. Charles Buller prepared the drafts of letters between the Colonial Office and the Directors of the Company, in which were embodied the terms of the arrangement he proposed. These terms were assented to by the Government and the Company: the letters on both sides were written from Mr. Buller's drafts. The Bill of 1847 was prepared to carry into effect the arrangement, and ultimately it received the assent of Parliament. Such had been the circumstances under which the grant of additional aid, and of very large powers to the New Zealand Company, had been recommended by the late Government, and sanctioned by Parliament. With regard to the manner in which the arrangement thus sanctioned had been carried into effect, it had appeared to him that there was one clear rule to be fol-

lowed, namely, that the Company should receive every possible support from the Government in working out the plan; and, it being part of the arrangement that a Commissioner should be appointed by the Government, to watch over the proceedings of the Company, his (Earl Grey's) instructions to that Commissioner were not to interfere further than was necessary for the strict protection of the public interests, and for the purpose of seeing that the British Treasury and the Colony were not involved in larger or heavier liabilities than intended when the Act passed. The Commissioner was directed by no means to exercise the power he possessed of putting a veto on any act of the Company, in every case in which their measures might appear to him injudicious; the principle of the Act of Parliament was to invest the Company with the power and the responsibility of conducting a great experiment in colonization; and the only way in which this experiment could be fairly tried was to leave them free and unfettered to act upon their own judgement, except in cases in which interference was clearly necessary for the protection of the public interest. At the end of the period named by the Company as that in which the experiment might be fairly tried, they found that, notwithstanding the large pecuniary assistance they had received, they could not go on; and they claimed under the terms agreed on, to be relieved from the debt due to the Government, and they claimed also a certain sum to be obtained from the sale of lands in New Zealand. He was astonished to hear the noble Duke draw a distinction between the legal and moral right of the New Zealand Company to the ultimate payment of the money due to them and charged on the land fund, and deny their moral claim to more than they could obtain under a strict technical construction of the Act of Parliament. It seemed to

him, that whatever might be the strict construction of the Act of Parliament, the Government and Parliament in dealing with the Company were bound to act in the same manner as one honourable man would deal with another in a transaction in private affairs, and ought to carry fairly into effect the obvious intention of the agreement. Looking at the subject in this light, he thought it was impossible to say that the New Zealand Company had no claim whatever. Their Lordships should recollect that the whole capital of the New Zealand Company had been applied in creating this colony, and giving value to those lands, the sale of which was to produce the fund which they calculated upon for the ultimate repayment of those advances, and he repeated that that was a claim which they could not honourably decline to recognize. It was true that the Act of Parliament pointed out no specific portion of the lands that was to be applied for the support of emigration, and therefore under the letter of the law the Crown might no doubt apply so large a proportion of the fund to emigration that the claim of the Company would be practically defeated; but this would be inconsistent with good faith; the proportion of the proceeds of the land sales applied to emigration had been left undetermined, and it was considered that it was the interest both of the Company and of the Colony, if the debt was ultimately to be paid, so to divide the whole receipts between the promotion of emigration and the payment of the Company as to leave as large a sum as possible for the former without neglecting the latter object, because by that means the demand for land would be increased, and the debt of the Company would be thereby extinguished. The Act of Parliament contemplated obviously the ultimate payment of the debt, and it was the interest of the Company and

of Parliament that it should be discharged as speedily as possible, by the best possible administration of the lands. The noble Duke said the Company asked for inquiry, and that, pending that inquiry, Parliament ought not to deal with the subject. If by passing the Bill now before the House without the clauses relating to the Company, their position would be unaltered, he should concur in the opinion that Parliament had better not at present deal with this part of the question; but as it was clear that to pass this Bill, omitting the clauses, would alter the position of the Company greatly to their injury, he thought the clauses ought to be retained, though he entirely agreed that inquiry into this matter was right and proper, and he trusted that in another Session the House of Commons would institute a searching investigation respecting it. It was his desire that the inquiry should be conducted on the strictest principles—that every letter, public and private, in connection with the case, should be laid before the Committee, so that the subject should be fairly investigated and reported on by a competent and impartial tribunal. Although he was far from being prepared to defend all the proceedings of the Company, for he would admit that they had frequently acted with imprudence, still he was happy to be able to state that, having investigated the entire case, he had come to the conclusion at which he anticipated the Committee also would arrive—that there had been throughout all these complicated transactions nothing to reflect on the honour, the probity, or the good faith of the gentlemen who had conducted the affairs of the Company. If there were to be an inquiry, it would be inexpedient to enter prematurely into a review of the entire question, in order to convince their Lordships that there was no ground for the charges that had been brought against the Company.

Indeed it would be impossible to do so without having the papers before them which were not yet on their Lordships' table. But without going into the whole case, there were two charges brought against the Company of so serious a nature, and which had been stated with so much confidence, that he must make some observations upon them, especially as an endeavour was made to implicate him in them. These clauses related, first, to an alleged misappropriation of the public funds; and, secondly, to the sending out of certain legal opinions. Now, he must say with regard to the first, that no misapplication of public money could possibly have taken place without the sanction of one or other of the gentlemen who had in succession held the office of the Crown Commissioner; and he had such perfect confidence in both those gentlemen, that he was no less convinced that no money could have been misapplied from the sums appropriated with their sanction, than he should have been had he been personally cognizant of the manner in which every shilling had been expended. The first Commissioner had become involved in disputes with the Company, which ended in his removal; and it was absurd to suppose that he could have allowed them to misappropriate the public money. He was succeeded by a gentleman in whose honour he (Earl Grey) felt no less confidence than in that of Mr. Cowell; while he had greater reliance on his judgement, his discretion, and temper. The instructions he had given to these gentlemen were, that they should not interfere in the application of public money except in cases of abuse, and that he believed to have been the right and proper mode of carrying into effect the arrangement sanctioned by Parliament, for the reason he had already explained. The second charge was, that the New Zealand Company having in a question between themselves and a body of their settlers

obtained two opinions from eminent counsel, one adverse and the other in favour of their own view of the subject, had transmitted the latter as if it were the only one to the Colony, and had thus unfairly obtained the assent of the settlers to an arrangement unfavourable to them. Now it would be manifestly absurd were he to enter into the entire history of the complicated transactions to which these opinions related; but he would merely say that in 1849 papers were laid before Parliament, were given to the world, and were sent to the Colonies, in which there was a despatch mentioning the fact that an opinion adverse to the Company had been given by an eminent counsel. It was therefore evident, that the circumstance of an opinion of that sort having been given had been known to all the world for three years, and yet during that time no attempt had been made to unsettle the arrangement made, and now insinuated to have been unduly influenced by the withholding of that opinion. The question raised was, whether the settlement between the New Zealand Company and the Nelson settlers was a fair one, and he believed it was a most advantageous conclusion of affairs for the settlers; and as the existence of the opinion had been publicly known for three years, he said, let the investigation take place by all means; let it be conducted on the most rigorous principles, but in the meantime let the bargain be adhered to, and in justice to the Company let the arrangements suggested by Her Majesty's Government be sanctioned by their Lordships. He would ask what had rendered the land of New Zealand more valuable than the land in New Guinea or other countries uninhabited by civilized men. It was because the Government, Parliament, and the New Zealand Company, had expended large sums in establishing settlers in the former—it was this, and this only, which had given value to the land.

there; and therefore it was not unreasonable to say that the Company, having received no return for its expenditure during many years (and it was probable it would receive nothing for many more), should have a claim on the land of which the value had been thus enhanced by their means. He thought however that a clause should be inserted in the Bill, that any future claims under the Act of 1847 should be defrayed out of the Colonial funds by the Government of New Zealand, and that none should be in future paid by the Imperial Government. These claims should no longer be on the British Treasury and nation."

C.

Copy of a Despatch from Earl Grey to Governor Sir H. G. Smith, Bart., G.C.B.

"*Downing-street, January* 31, 1850.

"SIR,

"I have now to transmit to you the Report of the Committee of the Board of Trade and Plantations, to which Her Majesty has been pleased to refer the subject of the proposed establishment of a Representative Legislature in the Colony of the Cape of Good Hope.

"This Report so clearly lays down the outlines of those institutions which it is proposed to establish in the Colony, and so fully points out the general reasons which have induced the Committee to adopt its conclusions, both in those instances in which they concur with, and those in which they differ from, the views so ably expressed in the several minutes and papers which I have received from

you, that all comment on it from myself is rendered unnecessary.

"You will observe that the recommendation of the Committee is, that the main and leading features of the Constitution to be granted to the Colony should be laid down in Letters Patent. It will be my duty to proceed immediately to cause the necessary instrument for this purpose to be prepared; but it also directs that all the subordinate arrangements should be made by Ordinance in the Colony.

"You will, therefore, on the receipt of this despatch, immediately proceed to cause the necessary information to be collected, and whatever other preliminary work may require to be done, performed, with a view to the preparation of these Ordinances. The various details of the machinery of elections, the definition of the franchise of the electors both for the Assembly and the Legislative Council, and many other particulars, which will readily occur to you, are all subjects on which the necessary provisions will be made by Ordinance, and not by Letters Patent, and as to which, therefore, you may, with a view to expedition, prepare at once the matter to be embodied in the Ordinance, without waiting for the arrival of the Letters Patent themselves, though of course, until they reach you, the subject cannot be brought under the consideration of the Legislative Council.

"I have, etc.,

"(Signed) GREY."

"*Lieut.-Governor Sir H. G. Smith,*

"*etc., etc., etc.*"

Enclosure.

At the Court at Windsor, the 30th day of January, 1850.

Present—THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

"WHEREAS there was this day read at the Board a Report of the Right Honourable the Lords of the Committee in Council, appointed for the consideration of all matters relating to Trade and Foreign Plantations, dated the 19th instant, in the words following, viz.:—

"Your Majesty having been pleased by your Order in Council of January 31, 1849, to refer to this Committee various papers relating to the proposed establishment of a Representative Legislature in the Colony of the Cape of Good Hope, in order that we might consider the same and report to Your Majesty our opinion as to the measures it would be advisable to adopt; we have now, in obedience to Your Majesty's commands, humbly to submit to Your Majesty the following Report of the results of our deliberations.

"In laying before Your Majesty the conclusions to which we have come, we think it right, in the first place, to observe, that we have assumed the question referred to us to be, not whether it may be expedient to grant Representative Institutions to the Colony of the Cape of Good Hope, but rather what may be the particular form of Representative Constitution which may be taken for the purpose of carrying into effect the changes in its existing Constitution, which we may decide upon recommending. The former question appeared to us to have been already practically decided by the Despatch which, on Feb. 12, 1849, No. 276, was addressed by the Secretary of State for the Colonial Department to the Governor of the Cape of Good Hope, and in which that

officer was informed that Your Majesty's Servants would be prepared to advise Your Majesty to adopt the recommendation of the Governor, that a Representative Legislature should be established in this Colony, reserving for further and more mature consideration the question as to the manner in which this object should be effected. This last question, which is that which we understand to have been referred to us, we have found to be one of equal difficulty and importance. While we fully recognize the necessity of a change in the existing form of Government at the Cape, and the expediency of granting to its inhabitants the benefit of a Constitution founded on the principle of representation, we have found in the peculiar circumstances of the Colony very serious obstacles to the establishment of any such system of Government, of which the satisfactory operation can be anticipated with any confidence; and we are bound to express our fear, that we have failed in discovering any mode of proceeding which we can recommend, as being free from grave objections; we shall therefore only be able to point out that to which it appears to us that there are the fewest, and of which upon that ground we are prepared to advise the adoption.

"The difficulties which must be encountered in any attempt to establish a representative Government in the Colony of the Cape of Good Hope, have been explained in a Despatch (forming part of the papers referred to us) which on the 15th of April, 1842, Lord Stanley, who then held the seals of the Colonial Department, addressed to Governor Sir George Napier. Referring to this Despatch for a fuller statement of his Lordship's views, we may observe that the most serious difficulties he anticipated in the satisfactory working of a Representative Legislature in this Colony, were first, those which he thought were likely to arise from

the great distance of many of the districts of the Colony from the capital, which was calculated to prevent those remote parts of the country from having their due weight in a Legislature meeting at Cape Town; and secondly, those which would be occasioned by the circumstance that the population of the Colony was composed of various races, widely differing from each other in character, and in the progress they have made in civilization.

"In the able papers forming the enclosures of the Despatch of the present Governor of the Cape, dated July 29th, 1848, the questions are very fully discussed—whether these difficulties are likely so to affect the working of representative institutions, as to be a valid objection to their being granted; and whether, if they are to be granted, it is expedient either to divide the Colony into two or more districts, having separate Legislatures, or to remove the place of meeting of a single Legislature to some more central situation than that of Cape Town.

"After an elaborate examination of these questions in all their bearings, the Judges and the members of the Executive Council of the Colony have concurred in expressing their opinion, that a Legislature in which the inhabitants of the Colony are represented ought to be created; that there ought to be but one such Legislature for the whole Colony, and that Cape Town should continue as at present to be the seat of the Government.

"We are not disposed to dissent from these practical conclusions, because, upon the whole, we think that it has been shown that still greater inconvenience would result from any other course that could be adopted; but we regret our inability to express our opinion that, in the practical working of a representative constitution at the Cape, the geographical difficulties anticipated by Lord Stanley

will not be experienced to a very serious degree. The formidable distance which separates much of the wide territory included within the Colony from the seat of Government, must, we apprehend, greatly affect the value, to the inhabitants of the remoter districts, of the privilege of choosing their own representatives, more especially when the imperfection of the existing means of communication (greatly as these have of late been improved) is considered; and the fact that there are few, if any, of the residents in these districts who possess wealth and leisure enough to enable them, if chosen members of the Legislature, to reside for any considerable time in each year in the capital, for the discharge of their senatorial duties, without extreme inconvenience. We have not long since, in reporting to Your Majesty on the changes proposed in the constitution of the Australian Colonies, had occasion to point out how intolerable a grievance it had been felt by the inhabitants of the district of Port Philip to be placed under the authority of a Legislature meeting at Sydney, and to be called upon to elect members of that body. We regarded this grievance as so real, that we had no hesitation in recommending that the district in question should be erected into a distinct Government as the province of Victoria.

"We can hardly doubt that the residents in the eastern and northern portions of the Cape territory, will experience similar inconvenience to that which has been felt by the inhabitants of Port Philip; and we are only withheld from advising that the Colony should be divided by the circumstance, that it appears to be the decided opinion of those whose local knowledge gives them better means of forming a sound judgement than ourselves, that the means do not exist of forming two separate Legislatures with advantage; and also by the consideration, that hereafter,

if the population of the eastern district should be largely increased, the division may be at any time effected, if in the opinion of the Representative Legislature, which may in the first instance be created for the whole Colony, this division should become desirable.

"We would submit to Your Majesty that, in order to mitigate as much as may be possible the inconvenience to which the inhabitants of the eastern district will unavoidably be subjected, it would be proper that the members of the Legislature should receive a pecuniary allowance sufficient to cover the expense to which they will be put on their journey, and by their residence at a distance from their homes; and also that arrangements should be made restricting the annual sessions of the Legislature to as short a period as may be practicable. With a view to the latter object, we are of opinion that as large a share as possible of business should be intrusted to the municipal and other local bodies which already exist, and that no opportunity should be lost of improving the organization of these bodies and extending their functions, leaving to the General Legislature only that class of business which, in the strictest sense of the words, is of common interest to the whole Colony. With the same object, we would further recommend that the amount of the allowance to be made to members for their attendance should not be made to depend upon the length of the session, but should be of a fixed amount, to be paid only when the business of the session should be completed.

"With regard to the difficulties which were considered by Lord Stanley as being likely to arise in the working of a representative Government, from the circumstance that the population of the Colony is composed of various races differing from each other in language, in character,

and in the progress they have made in civilization, we are willing to hope that they may be found less serious in practice than his Lordship anticipated; and we trust that the fact mentioned by Mr. Montagu, the Colonial Secretary, in his minute of the 10th of April, 1848, that the coloured inhabitants have taken part, without objection, in the Municipal Government of Cape Town, both as electors and as representatives, may be accepted as a proof that they will also be able to take their fair share in the exercise of those powers which will be entrusted to the people by the creation of a representative Legislature. At the same time we are bound to observe that there is a great difference between the coloured inhabitants of Cape Town, who are in general removed by at least three or four generations from the untutored natives of Africa, as they existed before they were brought into contact with European civilization, and the rude and ignorant beings, some of them still but little, if at all, raised above the condition of their original barbarism, who are to be found in other districts of the Colony, and in some, constitute a very considerable portion of its inhabitants. We think it will be indispensable that arrangements should be made for securing the effective protection of the Crown for this population of African race, as they cannot themselves exercise any considerable share of that popular power which will be created by the establishment of a representative Legislature. We shall, in a subsequent portion of our Report, have occasion to return to this subject.

"Should Your Majesty be pleased to adopt our advice by sanctioning the creation of a General Legislature for the whole Colony, in which its inhabitants should be represented, the next question to be determined will be, shall that Legislature consist of a single deliberate body on the

principle of the Legislative Council of New South Wales, which, with the Governor, should exercise the powers of legislation; or will it be better that the old Colonial system should be adopted of a Legislature of three estates, consisting of the Governor, a Legislative Council, and a Representative Assembly? We have no hesitation in giving it as our opinion that the latter should be preferred. In our Report upon the Australian Colonies we have fully explained our reasons for considering it better, in cases in which a regard for existing arrangements does not prescribe a different course, that two deliberate bodies should be required to co-operate in the task of legislation; and we find that the principle which we had thus recommended, as that which ought generally to be followed in the constitution of a Colonial Legislature, has also been pointed out as the one most suitable to the special circumstances of the Cape by the Governor and the majority of his advisers on this subject. We therefore beg leave humbly to submit to Your Majesty our recommendation, that the Legislature of the Cape of Good Hope should consist of three estates, as in the older British Colonies; though, for reasons which we shall almost immediately proceed to state, we do not advise that the Legislative Council should be constituted upon the model which has hitherto been generally followed.

"Previously however to explaining our views with reference to the composition of the Legislative Council, it will be convenient that we should advert to the much less difficult question which relates to the constitution of the Assembly. We are of opinion that this body should be elected by voters whose qualification should be that recommended by Mr. Montagu; that is to say, that in the towns and villages in which Municipal Boards have been created

the franchise should be the same with the existing municipal franchise; and that in the electoral districts, in which Municipal Boards have not been constituted, the right of voting should be conferred on all those whose property has been assessed for the expense of the roads. This franchise possesses the great advantage of extreme simplicity, and of introducing as little novelty as possible.

"Closely connected with the question as to the electoral franchise, is that respecting the qualification for members of the Assembly. In the Minutes transmitted by Sir H. Smith different proposals are made upon this head; but we confess that we do not find any reasons to be advanced for narrowing the choice of the electors, which appear to us sufficient to establish the necessity of doing so; and believing that if the electors should not prove trustworthy, but should be inclined to make a bad use of their franchise, no qualification which may be required for members, whether it be the possession of property or belonging to a liberal profession, would prevent the choice of representatives who would express the sentiments of their constituents, we would recommend that no person entitled to the elective franchise should be excluded from sitting as a member of the Assembly. At the same time we think it would be expedient that, in making the arrangements which would be necessary for the introduction of the proposed change in the constitution of the Colony, the existing Legislative Council should be empowered to establish a qualification for members of the Assembly, if it should judge this to be expedient for local reasons of which we are not aware.

"With regard to the number of members of which the Assembly should consist, and to the principle upon which the division of the Colony into electoral districts should be

made, we are disposed generally to concur with Mr. Montagu, the Colonial Secretary. We consider it to be an important and valuable suggestion that the towns and the rural districts hould be separately represented in the manner recommended by Mr. Montagu; we do not however concur with him in thinking that it would be expedient altogether to reject the principle of making some allowance for the extent as well as the population of a district, in determining its share of the representation, on the plan which is adverted to in the Despatch of Lord Stanley we have already quoted, as having been in some cases adopted in North America. No doubt if that principle were carried to the extent which has been supposed by Mr. Montagu, in the case he has put in illustration of its probable operation, it would lead to very inconvenient results; but we apprehend that this has never been contemplated; and on the other hand, if the inhabitants of Cape Town, who are said to constitute one-fifth of the whole population of the Colony, were on that account to return so many as a fifth of the members of the Assembly, there can be no doubt that the power of joint and combined action which they would enjoy from their residing within so limited a space, and with such facilities for communicating with each other, would give them far more than a proportionate weight in the Legislature, with the same number of inhabitants scattered over a wide extent of territory, and that the more remote and thinly peopled districts would be deprived of that share of influence which in fairness they ought to possess. Hence we would recommend that a rule should be adopted, by which the strict numerical proportion between the number of the population and that of the members they should be entitled to return, should be somewhat qualified in favour of the more thinly-peopled districts.

"The last point which it is necessary that we should here notice with reference to the constitution of the Assembly, is the period for which it should be elected. Upon this question we are disposed rather to concur with the Attorney-General than with the Colonial Secretary; and we should recommend that the Assembly should be elected for five years, unless sooner dissolved by the Governor acting on behalf of the Crown. We are of opinion that, in a territory of such great extent, frequent elections would prove a very serious inconvenience, and that a sufficiently close connection would be maintained between the representatives and their constituents by parliaments of five years' duration.

"The question as to how the Legislative Council ought to be constituted, which we will now proceed to consider, is one of much greater difficulty. It is on all hands admitted, that it is highly desirable that there should be a second branch of the Legislature less easily swayed by the popular feeling of the moment than the Representative Assembly, and capable of acting as a check and counterpoise to that body, in order to guard against hasty legislation without requiring the too frequent interference of the Governor or of the Crown. But in order to perform these functions with effect, it is necessary that the Legislative Council should be a body of real weight and influence, commanding the respect and confidence of the public. To create such a body is obviously a problem of no easy solution. If the ordinary Colonial Constitution be taken as the example to be followed, the Council ought to be composed of a moderate number of persons (including some holding offices in the public service) nominated by the Crown, and holding their seats (practically at least) for life. This is the description of Legislative Council of which

the majority of Sir Harry Smith's advisers have recommended the adoption; but after very careful consideration of the subject, and of the arguments they have advanced in favour of the conclusion to which they have come, we have not been able to concur in it. In stating their reasons for advising that a Representative Legislature should be established in the Colony of the Cape of Good Hope, the very able and experienced servants of the Crown who were consulted by the Governor, have unanimously expressed the strongest opinion that the existing Legislative Council does not command the confidence of the inhabitants of the Colony, and has little influence on public opinion. But the composition of the existing Legislative Council is practically the same with that which is recommended for the body, which, under the same designation, is proposed to be joined with a Representative Assembly in the work of legislation; it consists of official members and of members not holding any office in the public service, who owe their seats to the nomination of the Crown. We cannot believe that the character of this body would be essentially altered by increasing the proportion of unofficial to official members, or by making the life-tenure of their seats to depend, not on a usage which is practically almost invariably followed, but on the law; nor have we any reason to believe that it would be in the power of the Governors of the Colony in time to come, to make a more careful and judicious selection of members to be appointed to the Council, than that which has been made by their predecessors. On the contrary, we are persuaded that, after the establishment of a Representative Assembly, that body will have so much more real authority than a Council nominated by the Crown, that seats in the former will be a greater object of ambition than those in the latter, and it will thus become impossible

to obtain the services in the Legislative Council of gentlemen of as much weight and influence with their fellow-citizens as those who have been heretofore appointed.

"The inference, we think, is irresistible, that a body, which even while it exercises the whole power of legislation has little hold over public opinion, will cease to have any real weight or influence when it comes to be overshadowed by so substantial a power as that of an Assembly elected by the people. Hence we concur with the Chief Justice of the Colony in believing, that if it is desired to give to the Legislative Council strength to act in any degree as a balance to the Assembly, the elective principle must enter into its composition. We are fully aware of the importance of such a departure from all former precedents; but the considerations by which the innovation is recommended are, in our judgement, of too much weight to be disregarded.

"We recommend, therefore, that the members of the Legislative Council should be elected, but by a different body of electors from those by whom the members of the Assembly are to be chosen, and for a longer term. We would propose that the Council, unless sooner dissolved, should be chosen for ten years; that is to say, for a term equal to twice that for which we have proposed that the Assembly should be elected, and that it should be renewed not all at once, but by half of the members being subject to re-election at the end of every five years. In the first instance the members who had been elected by the smallest number of votes should be those to go out of the Council at the end of five years. At the subsequent periodical renewals of the Council the members to go out would of course be those who had served their full term.

"With regard to the franchise, in right of which persons

should be entitled to vote in the election of members of the Legislative Council, we are of opinion that if a property qualification is taken at all, it ought to be one considerably higher than that which is required to give the right of voting in elections for the Assembly. It must not be forgotten that hitherto it has been the practice in the British Colonies, that the members of the Legislative Council should be nominated by the Crown; and in proposing that they should be elected, we are aware that we are advising a measure which will add not a little to the power of the popular element in the Constitution; hence we are of opinion that it will be only a proper precaution to require that the electors by whom its members shall be chosen shall be of a higher station in society, than will be necessarily possessed by those who will be the constituents of the House of Assembly. Unless this is provided for, the Constitution will want, as it appears to us, that due balance which it ought to have.

"It is not in our power, from the information within our reach, to form a judgement as to what ought to be the amount of property which should give the right of voting in the election of members of the Legislative Council, and we would recommend that this question should be left to be decided (subject to Your Majesty's approbation) by the existing Colonial Legislature; but we would at the same time suggest, as a question well deserving the consideration of that body, whether it might not be a better arrangement to adopt a franchise of a different kind, and to confer the right of voting in the election of members of the Legislative Council on those who had been called either by the choice of the Crown or of their fellow-citizens to fill certain situations of trust and responsibility. It is an advantage, with a view to the adoption of a franchise founded on this

principle, that there are a considerable number of situations of trust connected with the local administration of the Colony, the fact of having been appointed to which might fairly be taken as a proof that the holders had been considered entitled to confidence, either by the Crown or by their fellow-citizens. In the rural districts the Justices of the Peace and Field Cornets are generally selected by the Governor on account of the estimation in which they are held, and their reputation as men of worth, intelligence, and activity. In the municipalities it is fair to presume that the Commissioners and Ward-masters are chosen by those whose affairs they are trusted to administer on similar grounds. It appears to us probable that a body of electors having great claims on the public confidence might be formed from the persons who were either actually the holders, or had formerly for a certain length of time held such situations as those we have just mentioned, to whom might hereafter be added those who for a whole Parliament had sat in the Assembly as representatives of the people. It is impossible, without more accurate local information than we possess, to point out precisely what should be the situations from holding which the right of voting in the election of members of the Legislative Council should be derived. This is a question which will require careful investigation on the spot; we will only remark that, in our opinion, the principle to be observed in making the decision should be, to take care that the rural and urban communities had each their due weight in the constituent body to be thus formed.

"The adoption of either such a franchise as that which we have now suggested, or of one resting on a high property qualification, which would prevent the electors of the Legislative Council from forming a very numerous

body, would render it difficult to divide the Colony into districts for the purpose of these elections; and we are also of opinion that, even if this difficulty did not exist, it would be better that the members of the Legislative Council should be chosen for the whole Colony than only for particular districts, since it would thus be more probable that the preference would be given to men of the highest reputation, rather than those of mere local influence. We therefore recommend that in electing the members of the Legislative Council, the electors in all parts of the Colony should send in writing certified declarations of the names of the candidates for whom they intended to vote, to the seat of Government, and that these declarations should there be publicly examined, and the result proclaimed.

"The adoption of this proposal would render it further necessary, to provide against the risk of having the Legislative Council composed exclusively of persons of the same political opinions. It is the invariable tendency of free governments to lead to the formation of political parties; and we believe that much of the usefulness of deliberative bodies exercising the power of legislation, depends upon their being so constituted as not entirely to exclude any of the parties into which the community is divided. In a popular Assembly, chosen by electoral districts of limited size, it is found that the various local influences which prevail, and the diversities of opinion and of interest which exist between different bodies of constituents, are in general sufficient, practically to secure a fair representation of every political party; but it is obvious that this would not be the case in a Legislative Council chosen by one election for the whole Colony, and that if it is desired that the body should not be a representation of a single interest and a single class of opinions, some means must

be adopted to guard against its falling entirely into the hands of the dominant party. With this view we would recommend that, in the election of the Council, each elector should have as many votes as there might be members to be chosen, and should be entitled either to give all these votes to a single candidate, or to divide them amongst different candidates at his pleasure; that is to say, that if ten or five members of the Legislative Council had to be elected, each voter should have a right either to give ten or five votes to any one candidate, or to distribute them amongst several. By this arrangement, a monopoly of power in the Legislative Council by any one party, or any one district of the Colony, would be prevented, since a minority of the electors, by giving all their votes to a single candidate, would be enabled to secure his return.

"We observe, from the papers before us, that it appears to be supposed that the Colony could not conveniently furnish more than ten unofficial members of the Legislative Council appointed by the Crown; we conclude that it would be equally difficult to find any large number of elective members who could serve without serious inconvenience to themselves, and who would be fit for this important trust; we would therefore advise that for the present this should be the number of the Council. Although it would be a smaller body than would in some respects be desirable, we are of opinion that a Legislative Council of ten members would be sufficient in the first instance; and as the Colony advances in wealth and population, the number might be increased.

"We have said that we recommend that the Legislative Councillors should be elected for ten years, half the body going out (but being eligible for re-election) every five years, provided the Council were not sooner dissolved.

Upon this subject we would remark, that it appears to us, that in order to guard against the possible contingency of an irreconcileable difference between the two branches of the Legislature, the Governor should be invested with the power of dissolving the Legislative Council if he should find it necessary to do so. We are however of opinion, that it would be right to provide that the Legislative Council should not be dissolved unless the Assembly were dissolved at the same time; but that the Assembly might be dissolved in the usual manner, without requiring that the Legislative Council should be so likewise. After a dissolution, as well as on the first election of the Legislative Council, the five members chosen by the smallest number of votes, would have to go out at the end of five years, in order that the periodical renewal of that body, by one-half at a time, might afterwards proceed with regularity. With the same object it would be necessary to provide that vacancies occasioned by the death or resignation of members, should be filled by new members elected only for the remaining term, for which those whom they succeeded would have sat.

"In so limited a body it would be necessary to require the regular attendance of all the members; we therefore recommend that any member who should be absent from more than half the meetings of the Legislative Council in any of its sessions, without the special leave of the Council, should be considered to have resigned his seat, and that it should be declared vacant accordingly.

"To this Legislative Council we should not propose to add any official members, with the exception of the Chief Justice, who might we think with great advantage be made its *ex-officio* Speaker. His high and dignified position would eminently qualify him for filling this situation, and we think it would be exceedingly useful to the Council,

in considering many of the questions which would come before it, to have the benefit of the advice and assistance of the first legal authority in the Colony. With this single exception, we are decidedly of opinion that it would be highly inexpedient to add official members to the Legislative Council, since such an addition would necessarily detract something from that character of independence which we are anxious to secure for that body.

"If, however, this recommendation should be approved by Your Majesty, we think that its adoption would render it expedient to confer upon the Governor the same power which has been given to the Governor of New South Wales, of returning, with amendments, for the consideration of the other branches of the Legislature, Bills which are tendered to him for his assent on behalf of the Crown. The Legislative Council, as it is constituted in some of the older Colonies, can sometimes be made use of with advantage by the Governor, to relieve himself from the embarrassing necessity of either accepting Bills containing objectionable provisions, or rejecting on account of such provisions, measures which are in other respects highly useful and even necessary. If the Governor is deprived of a preponderating influence in the Legislative Council, we are of opinion that he should be enabled to amend Bills which may be presented to him in the manner we have suggested. For all really useful objects this power would be of far more service than the influence in the Legislative Council, of which he would be deprived.

"The elective character we have proposed to give to the Legislative Council would also, we think, render it expedient to vary in another respect the ordinary rules for the transaction of the public business in a Legislature composed of three estates; and we would recommend that

it should be expressly provided that the Legislative Council should be entitled to amend, if it should so think fit, money Bills sent up to it from the Assembly, by either increasing or diminishing the amount of the taxation to be imposed, or of the appropriations of revenue to be made by the Bills proposed to it. These amendments would, of course, like any others, require the concurrence of the Assembly, before the Bills in which they were introduced would be presented for the assent of the Governor.

"Having thus fully explained our views as to what we think would be the best constitution of the Legislature for the Cape of Good Hope, we have now humbly to submit to Your Majesty some further observations on points which we consider to be of importance with, reference to the successful working of the system of government which it is proposed to establish.

"It has been suggested in most of the Minutes inclosed in Sir H. Smith's Despatch, that the principal officers of the Colonial Government should be at liberty to become members of the Assembly by election. We cannot concur in this recommendation, which is contrary to what has been the usual practice of Colonial Governments. It is true that of late years in the North American Colonies, what was formerly the general usage has been departed from, and that some of the principal offices of the Government are now held by members of the Legislature; but this change of practice has been coupled with the establishment of what has been termed 'responsible,' but what would more correctly be described as 'parliamentary,' or 'party government,' the essence of which is that the offices of the Colonial Government which are conferred on members of the Legislature, are to be held by them only while they continue to be supported by a majority of the

House of Assembly. This system of administration we regard as altogether unsuited to the present circumstances of the Cape Colony, because we believe it to be one which can never work with advantage except in countries which have made such progress in wealth and population that there are to be found in them a considerable number of persons who can devote a large proportion of their time to public affairs.

"When this system has not been established, the principal officers of the Executive Government have almost invariably, by their exclusion from seats in the popular assemblies, been withdrawn from the party contests in which they would otherwise have been involved.

"It is suggested that without the assistance to be derived from the members of the colonial administration, the Assembly would experience considerable difficulty in dealing with the various subjects which must come under its consideration. We do not think that the experience of other Colonies warrants any such apprehension; but if it is true that from peculiar circumstances this difficulty is likely to be felt at the Cape, we see no objection to providing that the Colonial Secretary, the Attorney-General, and the Treasurer, should have the privilege of taking part in the discussions of both branches of the Legislature, so far as might be necessary for the explanation of any measures proposed by the Government, but without being entitled to vote.

"It is strongly recommended by more than one of the Governor's advisers, that the last estimate for the fixed expenditure of the Colony should continue in force until the new one is voted. This recommendation is founded on the same principle (though the mode of applying it is different) with that contained in the following passage of the Report

which we had the honour of submitting to Your Majesty on the Constitutions of the Australian Colonies:—

"'Passing to the subject of a Civil List, we have to observe, that the very large proportion of the revenue of New South Wales, at present withdrawn from the control of the Legislature by the permanent appropriation of Parliament, has been a continual subject of complaint and remonstrance in the Colony since the passing of the Constitutional Act of 1842; and we cannot conceal our opinion that these complaints are not without some foundation. It appears to us hardly consistent with the full adoption of the principles of representative Government, that as to a large part of the public expenditure of the Colony the Legislature should be deprived of all authority; nor does there appear to us to be any real occasion for imposing a restriction upon the powers of that body, which manifests so much jealousy as to the manner in which those powers may be exercised. The expenditure thus provided for is all incurred for services in which the Colonists alone are interested. The Colonists themselves are mainly concerned in the proper and efficient performance of those services; and it appears to us that they ought to possess, through their representatives, the power of making such changes from time to time in the public establishments as circumstances may require. But while we are of opinion that there is no sufficient reason for refusing to the Legislatures of the Colonies a control over the whole of their expenditure, we also think that great inconvenience and very serious evils might be expected to arise, from leaving the whole of the public establishments to be provided for by annual vote. In this country Your Majesty's Civil List is settled upon Your Majesty for life, and, in addition to this, Parliament has thought fit to provide, by a permanent

charge on the Consolidated Fund, for a very considerable part of the establishments kept up for the public service, including the whole of those of a judicial character, leaving to be defrayed by annual votes those charges only which have been regarded as requiring the more frequent revision of the Legislature. The reasons which have induced the British Parliament in this manner to withdraw various heads of expenditure from annual discussion, and to make provision for them in a manner which can only be altered by an Act of the whole Legislature, apply, as we apprehend, with much increased force in favour of adopting a similar policy in the Colonies. It is not to be denied that in these smaller societies, party spirit is apt to run still higher than amongst ourselves, and that questions respecting the remuneration of public servants are occasionally discussed rather with reference to personal feelings than to a calm consideration of the real interest of the community. We believe also that true economy is promoted, by giving to those who are employed in the public service some reasonable assurance for the permanence of their official incomes. It is thus only that efficient service can be secured in return for a moderate remuneration. With these views the arrangement which we should recommend is, that Parliament should, in the first instance, charge upon the revenues of the several Colonies, an amount sufficient to defray the expense of those services which it would be inexpedient to leave to be provided for by annual votes of the respective Legislatures, leaving however to those Legislatures full power to alter this appropriation by laws to be passed in the usual form. It would remain for Your Majesty to determine what instructions should be given to the Governors of these Colonies, as to their assenting on behalf of the Crown to any laws which might be tendered to them by

the Legislatures, for repealing or altering any of the charges created by Parliament on the revenues of the respective Colonies. We conceive that it might be advisable, by such instructions, to restrain the Governors from assenting to acts making any alterations in the salaries of their own offices, or of those of the judges and some others of the public servants, unless these acts contained clauses suspending their operation, until they should be confirmed by Your Majesty's immediate authority. It appears to us that this course ought to be adopted, because we consider that the salaries of the principal officers of the Colonial governments ought not to be changed without Your Majesty's direct concurrence; and because the present holders of some of the offices of lower rank have received their appointments, under circumstances which give them a strong claim to the protection which would be thus afforded to them. Men who have abandoned other prospects for the purpose of accepting Colonial employment, which they had reason to expect would be permanent, and who have since faithfully discharged their duties, must be regarded as having claims which rest upon the grounds of public faith, and on contracts, which on their side have hitherto been strictly fulfilled, to retain their present salaries, so long as they shall conduct themselves properly, or to receive adequate compensation for their loss. We doubt not that such claims would be respected by the local Legislatures, whatever reductions they might see fit to make in other cases; but we think that Your Majesty ought to secure them even from the risk of a hasty and ill-considered decision to their prejudice, occasioned by some temporary excitement; subject to these qualifications, we are of opinion that complete control over the Colonial expenditure ought to be given to the respective Legislatures.'

"We are of opinion that the mode of proceeding here recommended, is that which it is preferable to adopt in making the arrangements for the future government of the Cape, and we would strongly advise that the fixed establishments should be provided for by a permanent appropriation, in the same manner with that portion of the civil establishment of this country which is charged upon the Consolidated Fund.

"The concurrence of the three branches of the Legislature would thus be necessary for any alterations in this appropriation, but we beg leave to explain, that we are far from intending that by this arrangement the Assembly should be debarred from the power of making reductions, even though they might be injudicious, in the amount of the expenditure provided for by their constituents. On the contrary, we should hold it to be highly inexpedient that the power which we have advised that Your Majesty should retain, should be practically exercised to check any retrenchments proposed by the Assembly with a *bonâ fide* view to the reduction of expenditure, and with a due regard to the claims of individuals on the public faith. There are but two exceptions which we are aware of, which it would be necessary to make, and these regard the salary of the Governor and the appropriations which are now made from the Colonial revenue for the maintenance of the establishments required for the preservation of order, and the spread of civilization amongst the border tribes.

"With regard to the Governor's salary, we think it necessary that it should be secured against injudicious reduction, because we consider it to be of vital importance that the salaries attached to the principal colonial governments should be sufficient to form an inducement for the acceptance of these offices to men occupying a high position at

home, and who have been here accustomed to take a leading part in public affairs. We are persuaded that the maintenance, in a manner satisfactory to both parties, of the connection between the Mother-country and those British Colonies which are rapidly advancing from the condition of infant communities, during their progress in population, in wealth, and in the exercise of the powers of self-government, will mainly depend upon the office of Governor being in all cases placed in the ablest hands that can be found.

"With regard to the appropriation we have proposed from the Colonial revenue, for objects connected with the policy to be followed towards the border tribes, we have to observe, that we consider, that to place the appropriation of sufficient funds for these purposes beyond the control of the Assembly, is absolutely necessary, in justice to Your Majesty's subjects at home who are interested in the maintenance of tranquillity, and to the native tribes who will not be represented in the Assembly, and yet are large contributors to the revenue from which this appropriation is to be made, since the various goods which they are beginning to consume in very considerable quantities, are subject to duties for the benefit of the Colonial Treasury.

"In connection with this part of the subject before us, we have to remark that we should not recommend that the authority of the proposed Legislature should be extended either over the districts known as the Orange River Sovereignty and British Kafraria, or over the Settlement of Natal. For the latter a separate Legislature has been already created; and with regard to the two former we shall have the honour of submitting to Your Majesty a distinct report.

"We have now gone through all the points which have

appeared to us to require attention with reference to the proposed change in the form of government at present in existence at the Cape of Good Hope. It only remains that we should very briefly explain the practical steps by which we are of opinion that this change may most conveniently be carried into effect.

"In the recommendations which we have humbly submitted to Your Majesty, we have suggested various arrangements, of which it would be impossible that the details should be determined in this country, since for this purpose accurate local knowledge, which is here unattainable, would be required.

"Hence, we would submit, that the most convenient course which could be adopted would be that Your Majesty should, by letters patent, authorize the Governor to summon a Legislature of the kind we have endeavoured to describe, as soon as Ordinances for regulating all the details of the arrangement should have been passed by the existing Legislative Council, and should have been confirmed by Your Majesty.

"We would recommend that in the letters patent to be issued for this purpose, the main and leading provisions of the Constitution to be granted to the Colony should alone be laid down, and that power should be given to the existing Legislative Council to pass Ordinances, subject to Your Majesty's approbation, for regulating all the subordinate arrangements, of which we are of opinion that as large a share as possible should be thus left to be determined on the spot.

"We would however humbly advise that Your Majesty would distinctly reserve to yourself the power of amending by Orders to be made in your Privy Council, the Ordinances which, in pursuance of the above recommendation, may be passed in the Colony.

"We are aware that some delay will necessarily be occasioned in effecting the intended change by the adoption of this mode of proceeding; but in creating representative institutions, and in deciding upon the form of government under which the Colony is in future to be placed, and which must exercise so powerful an influence in promoting or retarding its future progress in prosperity, the delay of a few months in carrying the change into effect, is so utterly immaterial compared to the importance of taking every possible precaution for guarding against the danger of error, that we feel it to be our duty to express to Your Majesty our strong opinion that the course we have suggested is the only one which can with prudence be adopted.

"Her Majesty having taken the said Report into consideration, was pleased, by and with the advice of Her Privy Council, to approve thereof.

"(Signed) WM. L. BATHURST."

D.

Copy of a Despatch from Earl Grey to Governor Sir H. G. Smith, Bart.

"*Downing-street, December* 10, 1850.

"SIR,

"I have had the honour of receiving your Despatch, No. 138, of the 24th of September, in which you inform me that, by the resignation of four members of the Legislative Council, that body had been interrupted in considering the measures required for giving effect to Her Majesty's letters

patent of the 23rd of May last, by which provision was made for establishing a Representative Constitution in the Colony of the Cape of Good Hope. Though I have not yet received from you any official account of your subsequent proceedings, and of the state of affairs in the Colony, I am likewise made acquainted with what had occurred up to the 3rd of October, by the Government *Gazettes*, and some of the colonial newspapers, which you have transmitted to me, from which I learn that you had regarded the Legislative Council as having been rendered incapable, by the retirement of the four members who had left it, of continuing its sittings with a view to the passing of the Ordinances contemplated by the letters patent for the completion of the Constitution; and that, in order to enable Her Majesty to provide by other means for that object, you intended to send to me a report from the remaining members of the Legislative Council, acting as a board of Commissioners, on the measures which ought to be adopted.

"It is a great disadvantage to me to be under the necessity of expressing to you the opinion of Her Majesty's Government upon transactions of so much importance, in the absence of that fuller information as to your views and intentions, which you state in the Despatch now before me, that you meant in a few days to furnish; but as your sudden summons to the frontier by the intelligence of apprehended disturbances in Kafraria, which I presume to have prevented you from writing again on this subject as early as you had proposed, may probably compel you to defer doing so for some time longer, I am unwilling to lose the opportunity of communicating with you afforded by the departure of the first of the steam-packets by which monthly mails are now to be forwarded to the Colony; and though, in the absence of the further information I expect from

you, it is out of my power to convey to you positive instructions as to the course you are to adopt, it may obviate some delay in bringing about the intended establishment of a Representative Government in the Colony if I now make known to you the judgement which Her Majesty's Government have formed upon the subject, from the information at present in our possession.

"In order to render more clearly intelligible what I shall have to say upon the recent transactions, it will be convenient that I should in the first instance shortly refer to some of the previous proceedings respecting the proposed change in the form of government now existing at the Cape. You will no doubt recollect that, having received your Despatch of the 29th* of July, 1848, expressing your opinion that the time was now come when the Colony might properly receive representative institutions, and transmitting to me the minutes drawn up at your desire by the chief officers of your Government in explanation of their views as to the manner in which this change might be effected, I advised Her Majesty to refer these papers for the consideration of a Committee of her Privy Council. That Committee, after very mature deliberation, presented to the Queen a report which Her Majesty was pleased to approve, stating very fully their views as to the manner in which it would be proper to constitute a representative Legislature for the Cape of Good Hope. In this report it was pointed out by the Committee, that while they were able from the information before them to form an opinion as to the general nature of the form of government which it would be expedient to establish in the Colony, it was impossible, from the

* *Vide* Correspondence relative to the establishment of a Representative Assembly at the Cape, presented to Parliament by Her Majesty's Command, 5th February, 1850, page 3.

want of statistical information, and of a sufficiently accurate knowledge of various local circumstances, that the details of any measure for carrying their views into effect should be arranged in this country; and they accordingly recommended that letters patent should be issued, by which the main and leading provisions of the Constitution to be granted to the Colony should be determined, while the duty should be imposed upon the existing local Legislature, of filling up the outline so traced out, and settling by Ordinances which were to be passed, subject to Her Majesty's confirmation, the various details which would require to be provided for, before the new institutions could be brought into operation.

"In my Despatch of the 31st of January of the present year* I forwarded to you a copy of this Report, at the same time instructing you immediately to take such steps, by collecting information and considering the various points referred to you, as might enable you with the least possible delay, on the receipt of the letters patent, to propose to the Legislative Council the Ordinances which it was requisite to pass. The letters patent were prepared, and as soon as they were completed by going through the proper legal formalities, they were transmitted to you in my Despatch of the 29th of May†. When the first of these Despatches reached you, the Legislative Council still remained incomplete, in consequence of the resignation of their seats in it by all the unofficial members except one, in July, 1849. You informed me by your Despatch of the 17th of May,

* *Vide* Correspondence relative to the establishment of a Representative Assembly at the Cape of Good Hope, presented to Parliament by Her Majesty's Command, 5th February, 1850, page 100.

† *Vide* Further Correspondence presented to Parliament by Her Majesty's Command, 28th June, 1850, page 3.

that you intended to fill the vacant seats, by calling upon the various Municipalities and District Road Boards throughout the Colony, to furnish you with the names of the persons whom they might wish to have appointed, selecting for appointment from among those so recommended to you 'the five gentlemen willing to serve who should appear best entitled to the confidence of the several classes and districts composing the entire Colony.' On the 14th of August you reported to me, that, in accordance with your intention thus expressed, you had provisionally appointed to the vacant seats in the Legislative Council the five gentlemen whom you regarded as entitled, under the terms of your notice, to be selected from those whose names had been returned to you.

"Though the step you had thus taken was one of a very unusual character, and in strictness you had no authority to divest yourself of the responsibility imposed upon you by your commission and instructions, of selecting upon your own judgement the persons to be provisionally appointed to fill vacancies in the Legislative Council; and though it was certainly a very irregular proceeding that you should have taken upon yourself to give to that body, which had hitherto been nominated by Her Majesty's authority, a representative character, by calling upon the Colonists to elect and recommend to you the persons to be appointed; still, having regard to all the circumstances of the case, I did not disapprove of the course you had adopted, and of your having endeavoured to obtain the assistance of persons having the confidence of the inhabitants of the Cape in deciding upon the measures which should be taken, in order to give effect to Her Majesty's gracious intention of conferring upon them representative institutions.

"The result however of the mode of proceeding you

adopted has not answered your expectation; and I learn by your present Despatch, that four out of five persons whom you had thus provisionally nominated members of the Legislative Council have resigned their seats, before any real business had been done. From a statement published by these gentlemen of their reasons for having thus acted, it appears they have resigned their seats in the Legislative Council because a majority of that body differed from them as to the propriety of the Legislative Council's proceeding with any other business, except that of framing and passing the Ordinance which is required to give effect to the letters patent of the 23rd of May*. If these gentlemen entertained the opinion that no other business but that of settling the Constitution of the future Legislature could properly be undertaken by that which now exists, I am at a loss to understand why this objection was not raised at an earlier period, or indeed why it was that they accepted at all the seats which you offered to them in the Legislative Council. In Her Majesty's letters patent which were published by you for general information, it is distinctly provided that the existing Legislature should continue in the exercise of all its functions, until the first writs should be issued for the election of the new Parliament, which is to be summoned as soon as the necessary arrangements for that purpose can be completed. It was with a full knowledge of this provision of the letters patent that the members who have now retired accepted their seats in the Legislative Council, and were sworn in, as I believe is the usual practice, faithfully to perform the duties of the trust they had accepted. Nor does any objection to the transaction

* *Vide* Further Papers relative to Representative Assembly at the Cape of Good Hope, presented by Her Majesty's Command, June 28, 1850, p. 3.

of ordinary business appear to have been suggested by the gentlemen by whom it was afterwards advanced, either at the first meeting of the Legislative Council, when you laid before it a Minute clearly implying that some other subjects besides the Ordinance for regulating the election of the new Parliament would be brought before it, or when you laid on the table your Minutes of the 10th of September, pointing out various important topics which required its attention.

"It seems clear, therefore, that the objection which was raised to the transaction of any business by the Legislative Council, except that which formed the special and most important object of its meeting, had not occurred even to the gentlemen who have put it forward as the ground for their resignation of their seats, only a few days previously; and I must add that, upon attentively considering the proceedings which ensued when this objection was urged, they seem to me clearly to prove that it was not one upon which there was any real ground for insisting. I find that after the resolution moved by Sir A. Stockenstrom had been rejected by a majority of the Council, another was moved by the Attorney-General, for the purpose of clearly marking what were the views of the majority, in which it was stated, 'that in the opinion of the Council it is indispensably necessary that the consideration of the annual estimates should be proceeded with, and that, with regard to all other matters, their being taken into consideration should depend upon their peculiar nature, as admitting or not admitting of delay.' The terms of this resolution (which was carried by the same majority of 8 to 4, which had rejected that of Sir A. Stockenstrom) describe precisely that line of conduct which I consider it to have been the duty of the Legislative Council to have adopted.

"It was clearly desirable that the important business for which the Legislature had been principally summoned should be proceeded with as expeditiously as was consistent with due deliberation; and that all matters which would admit of being postponed without serious inconvenience, should be left to the consideration of the new Parliament which was shortly to be assembled; but, on the other hand, there can be no subject on which mature deliberation is more obviously necessary, than that of the various arrangements to be made in establishing a representative system of government. It would therefore have been in the highest degree improper that an Ordinance to be passed for this purpose should be hurried through the Legislature; and as by the terms of the letters patent it would not, when passed, come into force until it had been submitted to and confirmed by Her Majesty, it was impossible that, while this measure was in progress, all the ordinary business of the Colony should be suspended; consequently, the resolution of the Attorney-General, which confined the business to be transacted to the consideration of the annual estimates, and of matters too urgent to admit of delay, was in strict comformity with the terms of the letters latent and with the views of Her Majesty's Government.

"Nor is this all. In considering these transactions it must be borne in mind that, up to a very recent period, it had been the general opinion of those whose duty it had been to consider the subject, that the state of society in the extensive territory included within the boundaries of the Cape Colony, was not yet such as to render it expedient that any form of representative Legislature should be created in this part of the British dominions, or that the Crown should divest itself of any portion of the power both executive and legislative which it has hitherto exercised there

without any limitation, except that of the responsibility of the advisers of the Crown to the Imperial Parliament. Yet, though this had been the opinion hitherto entertained, Her Majesty had now been advised, and had been graciously pleased to approve of that advice, freely to concede to the inhabitants of the Cape, representative government in its most complete form, granting to them the right, which is not at present enjoyed by any other British Colony, of electing not only the members of the House of Assembly, but those also of the second branch of the Legislature, who are everywhere else nominated by the Crown. Further still. By the Act of the Governor, which had not been disapproved by Her Majesty's Government, even before the arrangements for calling together the new Parliament could be completed, the inhabitants of the Colony had been practically allowed to select a large proportion of the members of the Legislature, hitherto named, without any popular influence whatever, by the sole authority of the Crown. Yet, because under these circumstances a majority of the Legislative Council refused to act in direct opposition to the very authority by which they had been entrusted with the powers committed to them, and determined that they would proceed with that ordinary business which it was necessary to transact to prevent the affairs of the Colony from falling into confusion, four out of five members of the Legislative Council appointed by you on the recommendation of the inhabitants have thought fit to resign their seats in that body, and thus to interrupt the progress of the measure by which the power of legislation was for the future to have been made over to a Parliament elected by the people, instead of being exercised by the Crown through its nominees.

"If the result of this proceeding on their part should be to postpone for some months the time when the Colonists

shall enter upon the enjoyment of those privileges, which have been so freely and ungrudgingly offered to them by the Crown, her Majesty's servants feel that the responsibility for the delay will rest not with them, but with those who have met in so different a spirit from that in which it was tendered, the boon which was held out for their acceptance. We have been earnestly desirous that a representative Legislature should be established as soon as possible at the Cape, but the accomplishment of this object has been thwarted for a time (I trust only for a time) by those who have misused the confidence placed in them by the inhabitants of the Colony.

"With regard to the course taken by yourself in consequence of the difficulty in which you were placed by the resignation of the four members who retired from the Legislative Council, I cannot convey to you the final judgement of Her Majesty's Government in the absence of the fuller information which I am led to expect; but I must not conceal from you that I am altogether unable to understand, from that which has already reached me, your reasons for having considered it necessary to interrupt the sittings of the Legislative Council on account of the resignation of four of its members. What was the obstacle to your making new appointments, or proceeding with the remaining members to consider and to pass the Ordinance for completing the Constitution—though it seems to have been considered insurmountable by your Executive Council as well as by yourself—I am entirely at a loss to conjecture; and you have not explained this, either in your Despatch or in the announcement of your intentions published in the Government Gazette. When on a previous occasion, in July, 1849, you reported to me that the Legislative Council had been virtually dissolved by the resignation of some of

its members, I inferred that the same intimidation which had prevented a gentleman, whom you had provisionally appointed to fill one of the vacancies so created, from retaining the seat which he had accepted, had been successfully exerted to prevent your collecting a quorum of the Legislative Council legally competent to act. Assuming this to have been the case, and having regard to the very peculiar difficulties of your position at that time, I abstained from expressing any disapprobation of your course in allowing the functions of the Legislative Council to be suspended, though even then I was very far from being satisfied that a more decided line of conduct would not have been the right one.

"But in the present case the reasons, such as they were, that led you to acquiesce in having the functions of the Legislative Council placed in abeyance in 1849, certainly did not exist. In addition to the five official members, two of the unofficial members were willing to continue their services, and have placed upon record, in a very able paper, the reasons which led them to concur with their official colleagues in the vote for proceeding with the general business of the Colony. As six Members form a quorum of the Legislative Council legally competent to act, I cannot see therefore why its sittings should have been interrupted, even assuming—which is not stated—that you found it impossible to make any satisfactory arrangement for filling up the vacant seats by fresh nominations. No intimidation is alleged to have been attempted; but if it had been so, as I gather from your Despatch that the obstruction to your proceedings was mainly the work of a party at Cape Town, there would have been an obvious and easy mode of defeating such an attempt, by removing the place of meeting to Graham's Town, and filling up the vacant seats by appoint-

ing to them gentlemen resident in that division of the Colony.

"For your further proceedings I find it still more difficult to account. It appears, from the Government Gazettes which you have transmitted to me, that, having suspended the sittings of the Legislative Council as such, you formed the remaining members of it into a Board of Commissioners, whom you instructed to report to you their views with regard to the Constitution which ought to be established in the Colony; and having obtained from them a report, you caused it to be published for general information, at the same time inviting all persons who might either approve or dissent from the conclusions of the Commissioners to communicate their opinions to you in Petitions, which you undertook to forward to the Secretary of State. These proceedings are regarded by Her Majesty's Government as objectionable and injudicious, and calculated to create and to keep up a most mischievous agitation on the subject of the future Constitution of the Colony.

"Such is the view adopted by Her Majesty's Government of the recent transactions at the Cape, from the information now before us: and although, as I have said, this view is on certain points liable to be altered by the further explanations I may receive from you, and I am not therefore able to give you final and positive instructions as to the course which you are now to adopt, yet, as it may obviate considerable delay in a case where delay may be very injurious, I will now proceed at once to give you such directions as to the line of conduct which you are to pursue, as would be required on the assumption that your future Despatches will contain nothing to alter the judgement which has been formed by Her Majesty's Government on those already received; at the same time informing you that these instruc-

tions are only given conditionally, and are not to be acted upon if you should be aware that there is anything in your Despatches, of a date subsequent to those which have already reached me, which is calculated to change the views which have been formed from these.

"Judging, then, of the case as it now appears to me, I am not prepared to advise Her Majesty, in consequence of the proceedings which have taken place at the Cape, to alter the mode of proceeding in establishing Representative Institutions in the Colony, which havebeen adopted on mature deliberation, and for that purpose to revoke the letters patent under the Great Seal of the United Kingdom which have been transmitted to you. Hence, as these letters patent require that Ordinances should be passed by the existing Legislative Council, to regulate the various matters connected with the proposed change in the Constitution, it will be your duty to call upon that body to consider and pass such Ordinances accordingly. These Ordinances, when passed, it will be necessary for you to transmit to me for Her Majesty's approval, before they can come into operation; and, in the meantime, you will have to call upon the existing Legislative Council to provide for the public service by voting the Estimates for the year, and also to sanction the expenditure which you have thought yourself compelled to incur without having obtained for it the usual Legislative authority. Such other subjects as may be urgent you will also call upon the existing Legislature to deal with, in such manner as the interest of the Colony may require, but all important questions which can, without serious public inconvenience, be reserved for the consideration of the new Parliament, undoubtedly ought to be so.

"With regard to the manner in which the new Par-

liament is to be constituted, so wide a discretion has been left to the existing Legislative Council, that I am aware of only one particular in which the arrangements proposed by the remaining members of that body, in the Report they agreed to as Commissioners, might not have been provided for by the Ordinances which you were empowered to pass. The letters patent require that the Chief Justice shall be *ex officio* Speaker of the Legislative Council which is to constitute the second branch of the new Parliament, and to this the Commissioners object, on the ground that the Chief Justice ought not to mix in Colonial politics, and that his duties as a member of the Legislative Council would be inconsistent with his judicial character. I cannot agree with the Commissioners in this opinion. In this country, not only does the Lord Chancellor preside, but it has also long been customary for persons holding other high judicial offices to sit in the House of Lords, and without inconveniently mixing themselves in party contests, or compromising their judicial character, to afford the most valuable assistance to that branch of the Legislature in the discharge of its duties. I see no reason to doubt that the Chief Justice of the Cape of Good Hope might equally, as Speaker of the Legislative Council, maintain a dignified neutrality in party contests, and at the same time, from his legal knowledge and experience, be enabled to give on many occasions very useful advice and information to the Body over which he presided.

"For these reasons I differ from the Commissioners upon the point in question; and though it is not in itself of very great importance, or one upon which I think there would be any occasion for refusing to consent to an alteration in the measure as originally proposed, which should appear to be generally desired by the inhabitants of the

Cape, I am not prepared at this moment to advise Her Majesty to make any change in the letters patent which have been transmitted to you. After what has occurred, I consider it to be indispensable that in the first instance the authority of the Crown should be maintained, by carrying into effect the grant of Representative Institutions to the Cape, in the manner which Her Majesty has prescribed. Hereafter, when a freely elected Parliament shall have met, any proposals for amending these institutions which may emanate from its authority, and which may be submitted to Her Majesty in a becoming manner, would no doubt be favourably received, and would meet with the utmost consideration. And I am the more disposed to regard any immediate change of the letters patent as inexpedient, because the frequent alterations in instruments of such high authority as Charters or Letters-patent under the the Great Seal of the United Kingdom are manifestly inconvenient; and the probability is that this is not the only change in the proposed arrangement which will be suggested by experience when the new Parliament shall have been brought into operation.

"You will doubtless recollect that the Committee of Her Majesty's Privy Council, of which the Report has been transmitted to you, did not come to the conclusion that one Legislature only should be established for the whole Colony without much hesitation, and chiefly in deference to the strongly expressed and unanimous opinion of the Judges and Officers of your Government, whose minutes on the proposed establishment of Representative Government you transmitted to me. Against the concurrent opinion of gentlemen possessing so much local knowledge, as well as experience and ability, it was not considered expedient by the Committee to recommend a division of the

Colony; but in abstaining from doing so, they pointed out the inconvenience which was to be expected from the opposite arrangement, and the probability that it would require hereafter to be reconsidered. I find that the reasons for anticipating such a necessity, are now even stronger than they then were, and it is impossible to read the statement which the two members of the Legislative Council, who may be considered as representing the Eastern division of the Colony, have published in the Government Gazette of the 3rd of October, of their objections to allowing the whole power of Legislation for the entire Colony to be exercised by a Legislature sitting at Cape Town, without being compelled to recognize the force of these objections. Hence, though the difficulty of dividing the Colony, and at the same time providing for the co-operation of the two divisions upon matters which are of common interest, would be great, the subject is one which will, I think, require to be considered, when, after the new Parliament has been brought into operation, it can be dealt with on the spot by persons possessing accurate local knowledge, and entitled to the confidence of the people as their representatives.

"Except with regard to the exclusion of the Chief Justice from the Legislative Council, there is nothing recommended by the remaining members of that body which, so far as I am aware, might not have been lawfully introduced into the Ordinances they were called upon to pass. But, on some points, the deviations they propose from the arrangements recommended by the Committee of Privy Council appear to me to be injudicious, and on one I certainly could not advise Her Majesty to sanction the desired departure from these arrangements. I refer to the opinion expressed by the members of the Legislative Council against

any limitation of the power of the new Legislature over the whole expenditure of the Colony. Upon this subject it does not appear to me that the members of the Legislative Council have quite clearly understood the recommendation of the Committee of Privy Council. That Committee, in their report, have not advised that there should be any portion of the Colonial expenditure exempt from liability to revision by the authority of the Legislature. In general, on the first establishment of Representative Government in a Colony, it has been considered expedient to reserve a Civil List, over which the Legislature should have either no power, or an authority limited by very strict conditions. Such was the course pursued by Parliament in the New South Wales Act of 1842, and in the Act for the Union of the two provinces of Upper and Lower Canada in 1840. But this was not proposed with regard to the Cape of Good Hope; all that was recommended with reference to that Colony was, that the fixed establishment should be provided for by permanent laws, precisely in the same manner as a very large proportion of the civil expenditure of this country is charged on the Consolidated Fund by permanent Acts of Parliament, which can only be altered with the concurrence of all branches of the Legislature.

"This arrangement was recommended on the ground that it would be highly inexpedient, more especially on the first establishment of representative institutions in a Colony which has not hitherto possessed them, that the various items of expenditure of the fixed establishment should become the subject of annual discussion in voting the estimates; but it was distinctly explained, that it was by no means intended that the power thus vested in the Crown should be used to resist any fair and legitimate reductions of expenditure which might be proposed by the Legisla-

ture. The same principle was introduced by Her Majesty's Government into the Bill for the better government of the Australian Colonies, which was submitted to Parliament during the last Session, and, having obtained the sanction of Parliament, is now embodied in the Act which has been passed.

"In transmitting that Act to the Governors of those Colonies, I have explained in the following terms the views of Her Majesty's Government with regard to the manner in which the power reserved to the Crown on this subject ought to be employed.

"'All other salaries, except those of the Governor and Judges, are placed by Parliament under the ordinary control of the Legislature. With regard to the mode of exercising this control, you will however observe that reductions of fixed establishments, or of any expenditure provided for by permanent laws, can only be effected by Acts of the Legislature, which of course require the assent of the Crown, signified by yourself, and confirmed by Her Majesty; but I wish you distinctly to understand, that there is no desire on the part of Her Majesty's Government to prevent prospective reductions of charges which, in the opinion of the Colonists, will safely admit of being diminished. The interests of existing office-holders must be protected, because they accepted those offices with expectations which cannot justly be disappointed. But subject to these interests, there is no objection to the Legislature fixing whatever scale of emoluments they may think fit for public servants to be hereafter appointed. I should, for my own part, consider it highly injudicious to reduce the salary of an office, so as to render it no longer an object of ambition to men of ability and of respectable station, but this is a matter in which the interests of the Colonists

only are involved, as they will be the sufferers from any failure to provide adequate remuneration for those by whom the public service is carried on; the determination therefore of what is sufficient must be left to the Legislatures, with whom will rest the responsibility for the judicious exercise of the power.

"'I consider it however absolutely essential that, whatever may be the rate of payment, the salaries of all the principal officers of the Government should, for the reasons stated in the Report of the Committee of the Privy Council, be permanently granted, that is, not voted from year to year, but provided for in the same manner as charges on the Consolidated Fund in this country by Acts, and therefore only susceptible of alteration by Acts of the Legislature, passed in the ordinary manner, with the consent of the Crown. You will therefore understand, that you are not at liberty to give the assent of the Crown to any Act which may be passed, reducing the salaries of those who are now in the public service, or rendering dependent on annual votes any of the charges now provided for by permanent appropriations. Any Acts of this sort you will reserve for the signification of Her Majesty's pleasure, unless you consider them so manifestly objectionable as to call for their rejection. Subject to this restriction, you are authorized to exercise your own judgement in giving or withholding your assent from Acts for the reduction of the fixed charges on the Colonial revenue.'

"'Being firmly convinced that there can be no just ground of objection on the part of the Colonists, to the retention by the Crown of the power in question, with a view to its being thus exercised, believing it to be one which is absolutely essential for the safe working of Representative Government on its first introduction, and seeing

that this conclusion has been deliberately sanctioned by Parliament during the last Session, I have to inform you that I cannot advise Her Majesty to give her sanction to any Ordinances which may be passed by the Legislative Council of the Cape for the purpose of introducing Representative Government, unless they include that permanent provision for the fixed charges of the Civil Government which has been recommended by the Committee of Privy Council; nor will you omit to observe that, among the charges which must thus be provided for, are those which are necessary for maintaining the existing arrangements with regard to the Border Tribes.

"None of the other points on which the members of the Legislative Council have proposed to deviate from the recommendations of the Committee of Privy Council, are so material as that which I have just noticed; and as Her Majesty has reserved to herself, by the letters patent, full power to amend any Ordinances which may be passed under their authority, it is not necessary that I should enter at length into these. I may however observe, that I think it would be highly injudicious, to allow the remuneration of the members of the Legislature to depend on the number of days it may have sat, since experience, I believe, fully confirms what it might have been concluded beforehand would be the objection to this arrangement, namely, that it has a tendency to encourage an unprofitable waste both of time and of the public money. I am also of opinion, that the mode proposed for regulating the election of the members of the Legislative Council is one much less likely to answer, than that suggested by the Committee of Privy Council, and will not be equally certain to secure their fair share of influence, to any party supported by a large minority of the electors; this is a consideration which is of great

importance, especially with reference to the interests of the eastern division of the province.

"I purposely omit noticing some other points of less moment, and I have now only in conclusion to observe, that if you shall judge that there is nothing in the Despatches which you may have addressed to me after those which I have already received, which is calculated materially to alter the view which Her Majesty's Government now take of the transactions recently reported to us, you will consider the instructions contained in this Despatch as those upon which you are to act, and you will accordingly forthwith call together your Legislative Council in order to pass the Ordinances that are required from it; and I trust it is scarcely necessary to add, that Her Majesty expects that you will not fail, by the firm exercise of the ample power with which you are invested, to defeat all attempts (should any such be made, which I trust will not be the case) to thwart you in the execution of the duty assigned to you. If, on the contrary, you are convinced that there are circumstances and considerations which had not been under the notice of Her Majesty's Government when these instructions were framed, and which render them inapplicable, you will then be at liberty to wait for further directions; but you will, I am persuaded, understand the necessity of being very sure of the sufficiency of the grounds on which you act, if the last should be the course which you adopt.

"I have, etc.,

"(Signed) GREY.

"*Governor Sir H. G. Smith, Bart., etc.*"

E.

Copy of a Despatch from Earl Grey to Governor Sir H. G. Smith, Bart.

"*Downing-street, January 7*, 1851.

"SIR,

"I have already acknowledged Mr. Montagu's letter to Mr. Hawes, of the 24th of October, and I have expressed the satisfaction with which I have learned from the further letters from Colonel Mackinnon, which were enclosed in it, that all the uneasiness with respect to the tranquillity of British Kafraria had ceased.

"It is not enough, however, that this alarm should have passed away. Its occurrence points out the necessity of endeavouring to ascertain and to remove the causes of that discontent on the part of the chiefs, which seems to have been its origin. Though the statements furnished to you by Colonel Mackinnon afford satisfactory evidence that this feeling did not exist amongst the Kafir population generally, and that, owing to their experience of the beneficial effects of British rule in Kafraria, the great majority of these people showed little or no inclination to support the chiefs in any attempt to throw off subjection to British control, still it would be unsafe to presume that if the chiefs should continue to be dissatisfied with the state of things which has arisen, their followers may not hereafter be induced by their influence to join in an attempt to effect a change by violence. It is also certain that the relaxation which is now taking place of the ancient ties of dependence which bound the people to their chiefs, is attended with considerable inconvenience in other respects, besides its

being calculated to create a discontent on the part of the latter, which is natural at all events, if not well founded.

"The difficulties now experienced in British Kafraria appear to be of the same character with those which are very generally found to arise from similar causes in a particular stage of the progress of barbarous tribes, when brought under the authority of a civilized power. The first effect of establishing such an authority is to put a stop to the injustice and tyranny almost universally exercised over savages by their chiefs, by enabling the population to appeal to the Government for protection against the wrongs which they may suffer. But it unfortunately happens that it is impossible to protect the people from acts of violence and injustice on the part of the chiefs, without gradually breaking down the authority of the latter for all purposes, and depriving them of the means of maintaining that social position in their tribes to which they have been accustomed.

"It is obvious that the effect of thus breaking down the authority of the chiefs, and lowering their social position, must be not only to create discontent among them, but also to impose upon the British Government the task of supplying the place of that authority which it has superseded in maintaining internal order among the tribes, and settling the various disputes amongst individuals which must inevitably arise. But this is a task which the British Government possesses no adequate means of efficiently performing, and I consider, therefore, that it is the wiser policy, instead of destroying whatever of social organization has hitherto existed among the savage tribes now brought under our control, to endeavour to maintain as much of it as possible, correcting the abuses and supplying the defects of the system. You will recollect that this is the policy which I directed you to pursue with regard to Natal in my Despatch

of the 10th December, 1847, and having recently had occasion to enter more fully into the subject in a Despatch addressed to the Governor of the British Ports on the Gold Coast, I cannot more clearly explain my views to you than in the words I have used in writing to Sir W. Winniett, which convey instructions not less applicable to Kafraria than to Western Africa :—

"'If I am correctly informed as to the state of society which existed in this part of Africa before it was modified by the influence of British power, the chiefs were enabled to maintain their station and to live in the manner considered suitable to their rank, by means of exactions of a very arbitrary character, and by the forced and gratuitous services of their people. These sources of income could not but fail with the establishment of a more regular system of government, and it would be good policy to prevent the discontent which this is calculated to excite in the chiefs, and to give them a substantial interest in the maintenance of the Protectorate, by allowing them, as a substitute for what they have lost, salaries or emoluments sufficient for their support in a style of living fully equal to that to which they have been accustomed, the duty being imposed upon them, in return, of acting as the executive officers of the Government, in maintaining order and carrying the law into effect.

"'Great care should be taken to make the performance of these duties the condition on which the proposed payments should be made, lest they should reduce those who might receive them to the character of idle dependants on the Government.

"'I have said that the condition on which the chiefs should receive these salaries ought to be that of maintaining the general regulations which may be established, and

enforcing order in their several districts. For this purpose they should have the assistance of a certain number of the inhabitants of each district, who (if this slight distinction were likely to afford any encouragement to their exertions) might be enrolled as constables, receiving some small annual fee for their trouble.

"'The chiefs should not have the power of inflicting punishments for offences by their own authority; but should be required to bring the offenders to be dealt with by the nearest magistrate.

"'To provide the funds necessary for making these payments, and meeting some other expenses for which provision will, I think, be required, it appears to be most advisable to have recourse to taxes on lands and houses, or perhaps to a poll-tax.

"'The most convenient form of imposing a land-tax in a rude state of society, I believe to be that of requiring from all who cultivate the soil a tithe or some other fixed proportion of the produce, as their contribution towards the public expenditure. This is the mode of raising a revenue for public purposes, which seems to have been the first adopted by mankind in the earliest stages of civilization, and to have prevailed generally among all nations in the remotest periods of which we know anything from history, while in Asia it continues to the present day to be almost universal. It is also a mode of taxation which, in an early stage of civilization, when money is scarce, and when little capital has been invested in land, seems to be the least burdensome that can be had recourse to, though in a more advanced state of society it is the reverse. I am of opinion that the circumstances of the Gold Coast at the present moment, are precisely those in which the levy of tithes of the produce of the soil would afford the easiest

and best means of raising from the people the means of providing for the expenditure which is necessary, in order to supply that want of a more effective system of administration which in the progress of improvement is beginning to be felt.

" 'The levy of tithes would have this further convenience, that they might be received by the chiefs, to whom they would perhaps afford a more suitable equivalent for their former exactions than a money payment, and from the tithes so received by them they might be required to remunerate the persons, whose employment, under the name of constables, to assist in enforcing the law I have already suggested.

" 'I should not, however, consider the imposition of tithes as expedient or even safe, unless it were guarded by giving to the cultivator a right of commuting the payment of tithes in kind for a money payment at a very low rate in proportion to the extent of land in cultivation. By giving the cultivator this right from the first, the danger of checking industry and improvement might be averted, while the facility of obtaining contributions in the first instance from men in a very barbarous condition, and among whom money is very scarce, would be retained.

" 'If the levy of tithes did not, after adequately paying the chiefs and their followers, afford a sufficient surplus for other necessary expenses, it might be expedient also to impose a house-tax, which ought to be very moderate in amount, and should be graduated on the principle of requiring all permanent inhabitants to pay something, while dwellings of greater value than the ordinary ones (if such there be) should be assessed at a somewhat higher rate. I believe that very moderate taxes of this description would act, for obvious reasons, rather as an encourage-

ment to industry than the reverse, and that if it were explained to the population that these taxes were a substitute for the arbitrary exactions to which they were formerly subject, and also intended to promote objects in which they are greatly interested, they would be cheerfully submitted to.'

"I have, etc.

"(Signed) GREY."

"*Governor Sir H. G. Smith, Bart.,*
"*etc., etc., etc.*"

F.

Copy of a Despatch from Earl Grey to Governor Sir H. G. Smith, Bart.

"*Downing-street, November* 30, 1849.

"SIR,

"I have received your Despatches, Nos. 117 and 137, of the 17th and 31st of July, forwarding copies of a correspondence between yourself and the Lieut.-Governor of Natal, to the location of the natives in that district, and the collection of a revenue from by a Capitation Tax or Quit-rent, and reporting that, under the circumstances represented to you by the local authorities at Natal, you had authorized the non-issue of the Proclamation recognizing native laws in the district, which was required by the Royal Instructions to the Lieutenant-Governor accompanying the letters patent establishing Legislative Council there.

"I have to convey to you my approval of your having authorized the suspension of the Proclamation, and I have now advised Her Majesty, for the reasons of policy assigned by the local authorities (without considering the question as to the supposed contradiction between the instruction and the Ordinance of 1845), to issue an additional instruction, revoking the clause of the Royal instructions relating to that subject.

"I have read, with great interest, the very able letters of Mr. Shepstone, the Diplomatic Agent, respecting the government of the native tribes: his views are, substantially, in accordance with my own, and I agree with him in thinking that the present state of Natal and of the Black population which has flocked there for our protection, affords a noble opportunity for the diffusion of Christianity and civilization, which it would be a disgrace to this Country to neglect.

"When I was called upon, in 1846, to decide whether it was expedient to retain Natal as a British Colony, I stated my conviction that the withdrawal of British authority from the district would be followed by the speedy destruction of the Black population which had taken shelter there; while, on the other hand, by taking proper measures for their control and protection under the Government, they might rapidly advance in civilization, and their improvement would exercise an important and beneficial influence to a great distance in the interior of Africa.

"These were the main objects to which I looked in the retention of Natal as a British Colony, not doubting that if these could be attained other advantages would follow in their train.

"I am fully sensible that the government of this large population, said to amount to upwards of 100,000 souls, is

a task of extreme difficulty and of no small danger, but it is a task from which we cannot now shrink, as its abandonment could only be effected by means which would be revolting to humanity. It is gratifying, therefore, to learn, by the reports from the Local Government, that this large body of natives is not only amenable to British control, but generally desirous of it, and that Mr. Shepstone has obtained an ascendency over them, by his personal influence and by the energy and ability which he has shown in managing them.

"I am confident that, if proper means are taken to stimulate these people to exertion, and to direct their efforts, they may be made, without charge to this Country, to supply all that is necessary for their improvement; and that, by levying moderate taxes, sufficient means will be found of forming and conducting a Government for them.

"I am confirmed in this view by the success which you state has attended your measures for collecting quit-rents in the Fingoe locations, in the district of Victoria; and I approve, as a provisional measure, of the tax of 7*s*. a-year per hut, which the Natal Government have lately imposed on the natives. This tax will not be sufficient to meet all the expenses for which provision requires to be made; but as the success of this policy entirely depends on the prudence with which such measures are enforced, the Local Government have, perhaps, acted wisely for the present in not fixing a higher rate. It may be regretted that some such tax was not imposed at an earlier date, as the rate might have been gradually increased, and by this time a revenue of some importance might have been raised.

"With reference to this subject of the taxation of the natives, I have been led by Mr. Shepstone's representations to consider, whether an important change in the mode of

levying it might not be introduced with advantage, at least with regard to a large proportion of the native population. I understand Mr. Shepstone to state, that this native population consists at present of two classes,—of tribes settled in the district and living under their chiefs according to their usual form of government, and, in addition, of a very large number of families which have been compelled to take up their abode within the district by stress of war and other calamities, some of which have joined themselves to tribes, while others are not strictly dependent on any chief.

"With respect, at all events, to the first of these classes, namely, the tribes, it is possible that taxation may be more easily and justly levied in the shape of a tribute as due from the tribe, than of taxes as due from individuals. It is often the case with similar tribes (whether this is the case in Natal or not, is a point which I recommend to your investigation), that the individuals, at least of the lower classes within the tribe, possess, according to their notions, little or no property on which a tax could be levied, and that their land, crops, and cattle are regarded as appertaining to the tribe in general, so that each individual has only his customary share in the enjoyment of the produce. Now, in such instances it may well be worth investigation, whether the tax on persons might not be, as before said, commuted to a tribute, imposed on the tribe, for which the chiefs should be the responsible parties, and the property of the tribe the responsible fund. Any extortion or malversation on the part of the chiefs might be corrected by that general superintendence, which, according to the scheme I am now considering, is to be left to the Colonial Government, over the Native authorities.

"These chiefs, as I have termed them, to whom the ad-

ministration of the native villages or communities and the levying of the tribute is thus entrusted, might be either such as are already recognized according to the native usage, whether hereditary or otherwise, or, where these fail, they might be appointed by the Colonial Government: ultimately, perhaps, they might be persons chosen by each community and approved of by the Government, which would be a first step towards admitting these people to a share in the management of their own affairs. If it were possible in this manner to appoint or to provide for the election of chiefs, the scheme of taxation or tribute, which I am now describing, might be extended, not to the tribes only, but to the natives generally.

"And the reducing of the taxes in this manner to simple assessments on land and cattle would have the further advantage of rendering it possible, ultimately, to establish one uniform system of taxation for natives and Europeans. Further: if the country were divided into districts, and each district charged with an assessment proportioned to the extent of occupied land and the number of stock pastured upon it, this natural advantage would be obtained, that all land on which no assessment was paid would be regarded as belonging to the Crown; and thus the effect of those profuse grants, which there is reason to apprehend have been made, would be in part corrected.

"I consider it however of the highest importance that whatever is collected in this manner should be locally expended. Each district should be required to maintain a policeman or constable, with assistants if necessary: to provide sufficient roads; to support a school and a dispensary or hospital, where every inhabitant should have the right to be treated gratuitously. This last I regard as an object of peculiar importance, as the experience of New

Zealand proves how greatly the establishment of public hospitals contributes to the improvement of an uncivilized race. It is obvious that all these expenses cannot be provided for at once: but by applying whatever revenue is collected by direct taxation to objects of local interest, the imposition of this burden would be rendered less unpalatable, while the general Government, being relieved from these charges, would probably find the revenue from indirect taxation sufficient to meet its necessary expenditure. To carry this system into effect, it would be necessary that there should be in each district an authority of a municipal character, but of course, in the first instance, of the simplest kind; and to this authority, under the superintendence of the Government, would be committed the duty of gradually creating these establishments.

"In the districts inhabited by Whites, this authority might, at first, consist only of a Mayor or Field Cornet (with perhaps an assessor or two), who should be allowed some very small annual salary for his trouble from the local taxes collected as above mentioned. It should be his duty with the assistance of his assessors (who would gradually grow into a District Council), to apportion the assessment among the inhabitants of the district.

"In the locations occupied by native tribes, a system of the same description, but adapted to their usages, might be introduced; and one great advantage of it would be, that the chiefs might act as the municipal officers, and might bear the same titles. This would be a step towards their gradual assimilation in sentiments and habits to the Whites, whose official designations they would thus enjoy. And the chiefs, if thus employed, as may perhaps be advisable, in the collection of any part of the local taxes, might be allowed a percentage on the amount so collected.

"I have in former Despatches stated my opinion, assuming that there is an assessment on cotton or land payable by natives as well as by Europeans, that the tax on cattle should be rated higher, in order to discourage the exclusive desire to possess that kind of property; that if the natives cannot pay their taxes in money, which they should be encouraged to do, they should be required to pay in labour or in kind, both being so rated as to make money payments preferable. To these might be added some very small poll-tax, if a poll-tax should be considered preferable to the general tribute payable by the tribe, which I have above suggested.

"The Commissioners reckoned that, in a location of 10,000 natives, 7000 would be of a taxable age, and that a poll-tax therefore of 3*s*. would produce £1050; but supposing a quit-rent likewise of £1, as in the case of the Fingoes, in Victoria, to be levied on half that number, there would be a further income of £3500, which alone would be sufficient to defray the ordinary expenses of management; and I, of course, assume that the amount, whether levied wholly by a poll-tax and quit-rent, or wholly or partly in the form of such a tribute as I have above suggested, would be the same.

"The taxes raised in each location (which should be levied quarterly or in advance) must, as I have said, be kept for local objects, and applied to the payment of the expenses of that particular location. It will be for the local Government to determine whether the chiefs should be made to assist in managing the expenditure, by entrusting to them this duty. Whenever they are qualified to perform it, the rudiments of municipal institutions would thus be created among them.

"The labour of the natives, when given in lieu of taxes,

might be applied to the formation of roads, and in the construction, in each location, of at least one village, built after the manner of Europeans, and of a market-place. This would enable the local Government to carry into effect the suggestions of Dr. Adams, the American Missionary, that a mission village should be established at each station, where those most advanced and desirous of benefiting by the privileges of the station may be encouraged to locate themselves. The Rev. Mr. Allison states, in a letter to the Lieutenant-Governor, that the natives under his care had built a village, after the manner of Europeans, thirty miles to the south of Pieter Maritzburg; and the Surveyor-General reports, that the sandstone, in the vicinity of that town, is an excellent building stone, and can be obtained in large masses; with these facilities, I should hope that the natives may be usefully employed.

"If the payment of taxes is made in kind, means will be afforded of giving rations to a native police, the expenses of which might be defrayed almost entirely by these means. I consider the extension of the native police as most important; and, indeed, as the first step towards the maintenance of order in the several locations.

"With respect to the whole of these connected suggestions as to taxation, but especially to that part of them which relates to the assessment of tribes, instead of individuals, towards this necessary local taxation, you will understand me to be anxious to prescribe rules only insofar as persons thoroughly acquainted with the natives and their usages, and especially Mr. Shepstone, the Superintendent, may, from their own experience and judgement, be satisfied that they are practicable. My object is to point out, for your guidance, those objects which appear to me most desirable and most advantageous on general prin-

ciples, if they suit those peculiar circumstances of time and place, as to which I must place reliance on your opinion, and that of your ablest advisers.

"But before any taxes can be effectually enforced, it will be necessary that a registry should be made of the natives belonging to each location, and this cannot be done until permanent locations have been assigned to them. I regret that so much delay has occurred in taking this important step; but I am aware that difficulties have arisen from the undefined claims of the Boers throughout the district.

"One of the proposals made, in order apparently to meet these difficulties, is to establish a very limited number of locations, with a reduced territory for each, and to remove the rest of the natives beyond the Colonial boundary, still maintaining a control over them in the event of the chief, Faku, giving his consent to their settling on lands claimed by him. I cannot sanction a proposal to which there are so many objections. I am of opinion that permanent locations of sufficient extent should be established within the Colony; and that, in selecting the sites of these locations, sufficient intervals should be left between each of them for the spread of White settlements; each European emigrant would thus have it in his power to draw supplies of labour from the location in his more immediate proximity. I conceive that it would be no objection to this mode of proceeding, that it would be difficult or impossible to assign to the natives such locations of an extent sufficient for their support as a pastoral people, or at least as a people depending mainly for support on their flocks and herds. I regard it, on the contrary, as desirable that these people should be placed in circumstances in which they should find regular industry necessary for their subsistence.

"I am aware that in these latter recommendations, I am differing from yourself, and from some of the local authorities at Natal; but if the policy of isolating the natives should be adopted, it would too probably end, sooner or later, in their expulsion or extermination, when the European inhabitants should increase in numbers so as to require additional space. No Government would be strong enough to save them from this fate; and the experience of North America and Australia shows what is the result of endeavouring thus to isolate the barbarous tribes occupying lands which are to be settled by civilized men, while the opposite policy, pursued by the Government of New Zealand, holds out the hope at least of a result more consonant with feelings of humanity. The separation of the races is no doubt the policy which, in the first instance, presents the fewest difficulties and dangers, but it is necessary to look to the ultimate consequences of what is done.

"It is of the greatest importance that the locations of the natives should be most accurately defined, and their villages so arranged at different points of these locations, that they may be, as nearly as possible, equidistant from the settlements of the Europeans, so that, in course of time, the two races may, by their mutual wants, become amalgamated. Every encouragement should also be afforded to the younger natives to become servants in the families of the European settlers. In this intercourse, which would gradually become closer, the natives would derive benefit from example and instruction, which they could not otherwise obtain, while, on the other hand, the Government may avail themselves of the assistance of the Europeans, settled in the vicinity of the locations, in managing their local expenditure.

"I have fully explained, in another Despatch, my views

respecting the land claims of the Boers; but I must here remind you (as the subject is so closely connected with that now under consideration) that the late Governor West represented that the farms claimed by them were scattered, at wide intervals, over an extensive territory in such a manner, that the local Government scarcely knew what lands were to be considered as having absolutely reverted to the disposal of the Crown, while no sensible increase of the White population within the district had yet taken place; and a small number only of the Boers had taken possession of their farms in the division of Klip river.

"The effect therefore of keeping open these undefined claims, is to preclude the Crown from disposing of large tracts of land, suitable either for European emigrants or for the location of natives, and this is a serious evil which must be remedied. I cannot entertain a doubt that the extent and capabilities of Natal are amply sufficient, after satisfying the just claims of the Boers, to support large bodies of emigrants from this country, as well as the native population now settled there. It would appear, from the report of the Surveyor-General, that the area of the district is probably not less than 16,000 square miles,—that it is everywhere covered with vegetation,—that water abounds in every part,—and that the soil is, in all cases, well adapted for cultivation. And, in your proclamation of the 10th of February, 1848, you state, that in this vast district, there is space for a population of two millions.

"The officer administering the Government of Natal should therefore be instructed to take steps for immediately assigning, as above stated, to the several tribes, permanent locations of sufficient extent, and in sites to be selected on the principle which I have stated, of intermixing them with White settlements. When this has been done, a re-

gistry should be made of the natives in each location with as little delay as possible. The expense of making such a registry, with the assistance of the chiefs or other superior natives, cannot be very great, and the means of defraying it may be derived from the tax of 7*s.*, which has already been imposed on each hut in the several kraals. I consider this measure as absolutely necessary with a view to regulating the taxation of the natives.

"With respect to the government of the locations, Mr. Shepstone remarks that, practically, the line of policy that has been pursued towards the natives is in accordance with the 8th clause of the Royal Instructions, with the exception that the former absolutism and supremacy of the chiefs are transferred to the Supreme Government; for that, in his capacity of diplomatic agent, he had administered to the natives, on behalf the Government, their own laws, through their chiefs where native agency existed, and directly where it did not; this ought clearly, for the present, to continue.

"But it is pointed out by Mr. Shepstone, that this system has been practically adopted without any proper legal authority, and that a very serious responsibility has thus been incurred by those by whom the management of the natives on this principle has been undertaken. It is important that this deficiency of authority should, as soon as possible, be supplied. With this view the proper course will be to propose to the Legislative Council of Natal the passing of an Ordinance qualifying the effect of the Ordinance of 1845, which, as Mr. Cloete points out, establishes the Roman-Dutch law in and for the district of Natal, by maintaining, as far as this can safely be done, the native habits and usages, either within certain defined local limits, or else in all transactions of the natives with each other.

In such an Ordinance the right of amending laws thus maintained in force, as from time to time may appear necessary or desirable, should, of course, be reserved.

"Any native who may have quitted his location to reside elsewhere as a farmer, labourer, or otherwise, would become amenable to the general law of the district; but he should not be allowed to leave the location without a pass, and I concur in Mr. Cloete's suggestion, that each adult male should be distinguished by a plate or medal, with the number of the station to which they may belong. Every encouragement should be given to the natives to clothe themselves, especially when resorting to the villages or markets, or when appearing before any Government officer: a common Jersey frock or shirt might suffice, and could be supplied at a very small cost. As soon as it can safely be done, a small fine should be imposed on those who should appear without such clothing in any of the towns or villages inhabited by Europeans.

"When you recently proclaimed Her Majesty's sovereignty over the tribes between the Orange and Vaal rivers, in which territory there existed both a population of emigrant Boers, and also of native tribes, you found it necessary to frame regulations similar to those which Mr. Shepstone considers requisite, in order to establish native usages in native locations, and Roman-Dutch law in the lands occupied by the Boers. Though these arrangements and the declaration of Her Majesty's sovereignty over this district have not yet been confirmed, I have furnished Mr. Pine, who is proceeding to undertake the administration of Natal as Lieut.-Governor, with a copy of the regulations, because he may find them serviceable by way of precedent and comparison. I must however call your attention to one point of comparison which is of some importance.

Mr. Shepstone's view is, that the laws of the natives should be administered by the Government 'through the agency of hereditary chiefs, and such other persons as it may be fit to appoint.' Whether Mr. Cloete concurs with him as to this, I do not exactly collect. By your regulations (Clause 13) you will observe, that natives, in their own locations, are to be governed by their own usages, subject only to the right of interference by the British Resident. Perhaps this regulation practically attains the same end with that suggested by Mr. Shepstone, although the wording is slightly different. And, if so, yours appears to me preferable, because it is better that the British Government should appear in the character of controller and rectifier of native usages, than of their actual administrator through chiefs as agents.

"I have stated to you in former Despatches my views in regard to the co-operation of the Missionaries in the improvement of the natives and the establishment of schools. I now only revert to the subject in order to state, that I attach the greatest importance to the principle of making these schools of an industrial character.

"Mr. Allison's account of the progress of his mission is highly interesting, and the local Government might apply to him to furnish native teachers for the locations. One or two agricultural instructors, European or native, might be employed to perambulate the locations, and to give practical instructions to the men working in the field; the women should be taught some employment at home, which would probably tend to their being gradually relieved from that heavy share of out-of-door labour which now falls upon them instead of on the men.

"The establishment of native dispensaries and hospitals, as I have already stated, would be highly useful and bene-

ficial, the latter containing wards to serve as workhouses and houses of correction, to which vagrants and persons sentenced to short periods of confinement for petty offences might be committed.

"I would remark, in conclusion, that the Report of the Commissioners for locating the natives in 1847, the later Reports on the same subject by Mr. Cloete and Mr. Shepstone, and the regulations for the management of the Fingoes in Victoria, are so ably drawn up, and are substantially so entirely in accordance with my own views, that it is unnecessary for me to enter into any further details of the measures necessary for bringing the rude tribes in Natal into the condition of civilized communities; and I confidently trust that by the means which have been pointed out, and by the energy of the local Government, this great change may eventually be accomplished, and that, in course of time, its influence may be felt far and wide in the interior of Africa.

"I have, etc.,

"*Governor Sir H. G. Smith,* (Signed) GREY.
"etc., etc., etc."

THE END.

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